



SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1965

No. 825

ELIZABETH ROSALIA WOODBY, PETITIONER,
vs.
IMMIGRATION AND NATURALIZATION SERVICE.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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[fol. 1]

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

RECORD BEFORE INVESTIGATOR OF SWORN STATEMENT OF
ANTHONY AMICON—November 15, 1961

Office: Cincinnati, Ohio File No.: A10 331 472

Statement by: Anthony Amicon

In the case of: Elisabeth Rosalia Woodby

At: Cincinnati, Ohio—Room 704

Date: November 15, 1961

Before: **Larry J. Porter, Investigator**
(Name and Title)

In the English language. Interpreter None used.

Reporting Stenographer: Alice C. Ballinger

I am an Officer of the United States Immigration and Naturalization Service, and desire to question you under oath regarding your knowledge of Elisabeth Rosalia Woodby, to determine her status under the Immigration and Nationality laws.

Any statement you make must be made voluntarily and of your own free will. Such statement may be used against you by the government as evidence in any criminal or civil proceedings, or against Mrs. Woodby in like case. Do you understand?

A. Yes.

Q. Are you willing to make such a statement under oath?

A. Yes.

Q. Do you swear that all the statements you are about to make will be the truth, the whole truth and nothing but the truth, so help you God?

A. I do.

Q. What is your true and correct name?

A. Anthony Amicon.

Q. What is your address?

A. 323 Fountain Ave., Dayton, Ohio.

Q. Of what country are you a citizen?

A. United States of America.

Q. Where were you born?

A. Dayton, Ohio

[fol. 2] Q. What is the date of your birth?

A. December 5, 1920.

Q. How long have you known Mrs. Elisabeth Woodby?

A. Approximately three and one-half years.

Q. Are you presently married?

A. In the eyes of the court, I guess I am, although I am separated for three and one-half years or better.

Q. Do you have an action pending in court at this time?

A. The divorce action is scheduled for December 8, 1961.

Q. Did you meet Mrs. Woodby soon after your separation from your wife?

A. Yes.

Q. Where did you meet Mrs. Woodby?

A. At the place she works, Neil's.

Q. Are you referring to Neil's Restaurant on Riverview Drive, Dayton, Ohio?

A. Yes.

Q. At the time you met Mrs. Woodby was she employed as a waitress at Neil's Restaurant?

A. Yes.

Q. Would you please explain the manner in which you met Mrs. Woodby?

A. I went in with a friend of mine to eat and this friend knew Mrs. Woodby and told me about her. We ate and he introduced me and that was it.

Q. What did this friend tell you about Mrs. Woodby before your introduction to her?

A. That she was in the business.

Q. What do you mean in the business?

A. That you could pay for companionship or sexual intercourse or what have you.

Q. In other words, she was supposedly a prostitute at the time he introduced her to you?

A. That is what he claims.

Q. What is the name of the friend who introduced you?

A. Richard Boland.

Q. What is the present address of Mr. Boland?

A. He moved to Toledo. I don't know where he lives.

[fol. 3] Q. What was Mr. Boland's business activity at the time you met Mrs. Woodby?

A. He was in the new tire and recapping business.

Q. Do you believe he is still employed in the same type of tire business?

A. It is hard to say because I lost track of him. He was just a mutual friend.

Q. Did Mr. Boland indicate to you that he had had sexual relations with Mrs. Woodby at the time he discussed her with you?

A. Yes.

Q. Did he tell you what her price was for an evening entertainment?

A. No.

Q. When did you start going with Mrs. Woodby?

A. To pin it down, after I first met her, I think I started going with her, and after she got out of work I met her and we went to her apartment and had a few drinks and few beers.

Q. Where did she live at that time?

A. 1500 Riverview (West), above Neil's.

Q. When you first started going with Mrs. Woodby did you pay her for acts of prostitution?

A. The first time I went up there, when it actually came down to the thing I couldn't go through with it. When I left I left the money anyway.

Q. Did she tell you what the charges were for that evening entertainment?

A. No.

Q. During this discussion there was the problem of her needing money?

A. Yes.

Q. Why did she want the money?

A. She wanted to go and pick up her daughter and she didn't have a car and it would take \$100 to rent a car from Hertz.

Q. How much did you give her on that occasion?

A. The very first time was \$10.00; then I started sending her fruit, vegetables and things like that. I talked to her also about what Dick had told me about being in that business. In other words, I paid her for her time to talk. This went on for approximately three months with no sexual intercourse.

Q. Would you be able to furnish the approximate date you first went to Mrs. Woodby's apartment?

A. The first of December 1957 and then I went back with my wife for Christmas.

[fol. 4] Q. When did you resume a sex relationship with Mrs. Woodby after you met her in December 1957?

A. About February 1958. I didn't pay for it at that time, and then sex turned into love.

Q. Did you ever have any other person tell you that Mrs. Woodby had been practicing prostitution other than Mr. Boland?

A. No, not that I can recall, although there was not her name mentioned, but "the German girl" by several other people.

Q. Do you know any other men who paid her for acts of prostitution?

A. No sir.

Q. Your testimony has indicated that about February of 1958 you started going with Mrs. Woodby and that your relationship developed into love. Is that correct?

A. Yes.

Q. Since that time have you paid her for acts of prostitution?

A. No sir. She has helped me financially and I have helped her financially since that time.

Q. The Dayton police record at Dayton, Ohio reflects that you and Mrs. Woodby were arrested on two occasions?

A. Yes.

Q. Do you recall approximately the date you were first arrested by the Police Department?

A. No.

Q. Our records reflect that you were arrested about February 27, 1959 at 1500 W. Riverview, Dayton, Ohio. What disposition was made in that case?

A. I don't know. Mr. Moore said it was dropped and that is all I was interested in. I didn't have to appear.

Q. At that time did you make a statement to the police officers who arrested you that Mrs. Woodby was being paid by you for her acts of prostitution?

A. Yes.

Q. Was that true?

A. I would say no.

Q. What were you paying her for?

A. I just wanted to help her out, that is all.

Q. What kind of a statement did you sign at the time of your arrest by the Police officers of the Dayton Police Department?

A. It was a statement, I believe, acknowledging that I had paid her for prostitution.

[fol. 5] Q. Why did you make this statement if it wasn't true?

A. Because the officer told me, as I told you, it was the first time I had ever seen a child in tears and the officer said "We know that Mrs. Woodby is a prostitute. If you don't sign it we will take the child down to Shawn Acres if you don't tell me." This child was at that time visiting her mother and she didn't know anybody, and having children of my own that is what I did.

Q. Why did Mrs. Woodby tell you that she had been practicing prostitution?

A. She told me how she happened to get into prostitution was because her husband had left her and taken the children to Kentucky to his parents. They were living on Notre Dame Ave., Dayton, Ohio. They had had an argument and she had a friend in Pennsylvania and Mrs. Woodby had \$10.00, and she took a bus to go to Pennsylvania to see this friend of hers. No more than she got there the friend advised her to go back, which she did do, and when she got there she found the empty house, no children, no husband and no furniture. She was left without money, without nothing, and there was a woman who owned the house, and from what Mrs. Woodby said this woman was in the business of a house for prostitutes, and that is what happened.

Q. Do you know how long Mrs. Woodby practiced prostitution prior to your meeting her about November 1957?

A. No sir, I can't tell you that because I don't know.

Q. Since your acquaintance with Mrs. Woodby in 1957, to your knowledge has she practised prostitution?

A. Not only to my knowledge, sir; I would be willing to bet anything on that. I know she hasn't.

Q. What relationship exists between you and Mrs. Woodby at this time?

A. Pleasant memories—still good friends and still think of each other and do for each other what we can.

Q. Are you still dating Mrs. Woodby?

A. I see her on occasion—like yesterday afternoon she called and I went over. There was another occasion she had \$40.00 taken from her apartment and I went over to see what was what. I stop over for meals occasionally.

Q. Do you still have sex relations with Mrs. Woodby?

A. No.

Q. When did this cease?

A. Five or six weeks ago, I guess.

[fol. 6] Q. Do you believe that if you had not furnished Mrs. Woodby with money or gifts that she would have continued her relationship with you from about November of 1957 until about six weeks ago?

A. Yes, she would. As I told you, she has helped me with my rent, etc. Sometimes I am caught short and she will help me with my dinner and rent.

Q. The records of the Police Department reflect that you were arrested at a later date, about 1960. What was the result of this arrest?

A. Insufficient evidence and it was dropped. No case, I guess is what they said, although the officers came out to the place.

Q. Has Mrs. Woodby been employed as a waitress at Neil's Restaurant at 1500 W. Riverview Ave., Dayton, Ohio since you became acquainted with her?

A. Yes, she has always worked there.

Q. Do you know where Mrs. Woodby resides at this time?

A. 904 Old Orchard, Dayton, Ohio.

Q. The records reflect that Mrs. Woodby, after her husband left her destitute, started practicing prostitution while she was residing with a woman on Notre Dame Ave., Dayton, Ohio. Do you know why she continued practicing prostitution until she started her relationship with you?

A. You would have to ask her. I don't believe she was in it continuously.

Q. You have stated off the record that Mrs. Woodby has told you that she practiced prostitution in order to raise money for an operation on one of her children. Will you explain this for the record?

A. She said that her husband came to her while she was working at Neil's and said that the little boy needed an operation to the amount of \$300.00. She didn't have the money so it was in that manner, I guess, that she raised it, —through this vacuum cleaner sweeper salesman who came up for a demonstration, and she had at that time just gotten the news of the boy needing the operation. I imagine what happened was that in the conversation that she told her troubles to this vacuum sweeper salesman and I just assume that he had relations with her and told her "I can do you a lot of good and I can see that you get the money."

Q. Did she tell you the name of this man?

A. Tom, but I can not tell you his last name.

Q. Did he bring men to her apartment?

A. Whether he actually brought them or called, I couldn't say.

[fol. 7] Q. How many trips have you made to Florida with Mrs. Woodby?

A. One.

Q. Did you and Mrs. Woodby register at motels as man and wife?

A. Yes.

Q. When was this?

A. In February 1960.

Q. To your knowledge, other than the times you paid Mrs. Woodby when you first met her for her acts of prostitution, do you know of any other persons with whom she engaged in such acts?

A. No sir.

Q. Can you of your own knowledge testify that she was a prostitute other than those times when you paid her for such acts?

A. No sir, just what I have heard.

Q. Have all the statements you have made here today been true and correct to the best of your belief?

A. Yes.

CLOSED

I certify that the foregoing record of statement, pages 1 through 7, is a true and correct transcript of the testimony recorded by me at the time the statement was made.

Alice C. Ballinger, Reporting Stenographer.

[fol. 9]

UNITED STATES DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

Cincinnati, Ohio

RECORD OF SWORN STATEMENT BEFORE INVESTIGATOR AND
SUPERVISING INVESTIGATOR OF ELIZABETH ROSALIA
WOODY—November 20, 1961

In re: Woody, Elisabeth Rosalia File No. A10 331 472

Present

Respondent: Elisabeth Rosalia Woodby

Investigator: Larry J. Porter

Supervisory Investigator: E. A. Kaler

Attorney: Earl H. Moore, Dayton, Ohio

Reporting Stenographer: Alice C. Ballinger

Place: Room 704, Post Office Bldg., Cincinnati, Ohio

Language: English

Date: November 20, 1961.

Investigator Porter to respondent:

Q. I am an officer of the United States Immigration and Naturalization Service and desire to question you under oath regarding your status under the Immigration and Nationality laws. You made a previous statement under date of July 6, 1961, which you signed on August 22, 1961, and at this time I wish to question you further relative to a matter pending before this Service. Any statement you make must be voluntary and must be given of your own free will. Such a statement may be used against you by the Government as evidence in any criminal or civil proceeding. Do you understand?

A. Yes sir.

Q. Are you willing to make such a statement under oath?

A. Yes sir.

Q. Will you please stand and raise your right hand to be sworn? (Complies) Do you solemnly swear that all of the statements you are about to make will be the truth, the whole truth, and nothing but the truth, so help you God?

A. I do.

Q. What is your true and correct name?

A. Elisabeth Rosalia Woodby.

Q. What is your present address?

A. 940 Old Orchard, Dayton, Ohio.

[fol. 10] Q. Are you the same Mrs. Woodby who made a sworn statement on July 6, 1961 before Investigator Larry J. Porter at this office?

A. Yes.

Q. Do you know when your husband died?

A. The 14th of July, about three years ago.

Q. Would that be about 1958?

A. I think so.

Q. The record reflects that you were admitted to the United States as an immigrant on Feb. 7, 1956 at New York, N. Y. Is that correct?

A. Yes.

Q. Have you been absent from the United States since your admission on that date?

A. No.

Q. When were you married to John Henry Woodby?

A. Jan. 8, 1955.

Q. Had you ever been arrested for any violation of law prior to your marriage to Mr. Woodby?

A. No.

Q. Do you have any children that were born in Germany prior to your marriage to Mr. Woodby?

A. Yes.

Q. What is its name?

A. Gloria Elizabeth Woodby, born the 7th of April, 1955.

Q. Who was the father of this child?

A. John Henry Woodby.

Q. Where does this child live?

A. In Kentucky right now by my in-laws—Harlan, Ky. I can send the mail to Penington, Va., but they do live outside of Harlan, Ky.

Q. Do you have any other children?

A. Leonard Clarence Woodby.

Q. Your previous statement reflects that your husband left you about three and one-half years ago. Do you recall the exact date he left you in Dayton?

A. About one and one-half months after the baby was born.

Q. Would you say he left about October 1957?

A. Yes.

[fol. 11] Q. Where were you living at the time your husband left?

A. 528 Notre Dame.

Q. Did you have an apartment at this address?

A. Yes.

Q. Do you recall the name of the landlady who owned this place?

A. No, I can not remember.

Q. Did she live in this house?

A. Next door. It was a double house.

Q. How large a house?

A. It was an upstairs apartment and you had to go through the kitchen down stairs.

Q. What was the name of this lady who owned the house?

A. I can't remember.

Q. Did you work for this lady?

A. No.

Q. Did this lady have several girls living in her home who practiced prostitution?

A. Not as I know.

Q. Did she have several girls living in her home?

A. I saw many people but I don't know if they were living there.

Q. Were there many men callers at this address?

A. I would say so, yes.

Q. Did she have you visit in her home frequently in order that you might entertain men visiting in her home?

A. No sir.

Q. Did you entertain men visiting her while you were residing at this address?

A. No sir.

Q. When did you move from this Notre Dame address to your next place of residence?

A. About a month later.

Q. Where did you move to?

A. Proctor Street.

[fol. 12] Q. Do you recall the address you resided on Proctor Street?

A. No. I was just staying there a month and then I moved.

Q. What kind of residence was this?

A. A big apartment house.

Q. Did you have an apartment or a room at this place?

A. Apartment.

Q. Did you live with anyone at this address?

A. With my little girl.

Q. I believe the record reflects that your husband took the children and went back—

A. Yes, but I went after her.

Q. Where did you move after you moved from Proctor Street?

A. Summit Court.

Q. Did you have an apartment at this place?

A. Yes, they have houses and you have to furnish it yourself.

Q. Do you recall the address on Summit Court?

A. Salerno Street.

Q. How long did you reside there?

A. One or one and one-half years.

Q. Who lived with you at this address?

A. My little girl. You asked me before if my husband took the children and I said yes, but I went after them.

Q. Your previous statement reflects your place of residence and you read this statement this morning. Is this

statement correct as to your places of residence and employment?

A. Yes.

Q. Your previous statement reflects that you admitted having illicit relationship with other men and engaging in sexual acts with them. Do you recall when you first started practicing such acts?

A. I wouldn't say I was practicing. I started going out with men but I know it was after my husband died.

Q. How soon after your husband died did you engage in illicit sex acts with other men?

A. After Christmas after I found out my husband was dead.

[fol. 13] Q. Would that be in January 1958?

A. It could be, yes.

Q. Where were you living?

A. 1500 W. River View.

Q. What money did you receive for such acts?

A. Gifts.

Q. What do you mean by gifts?

A. I mean gifts—if anybody give me anything—he give me money.

Q. Did you entertain more than one man each evening?

A. No sir.

Q. Did you have an established price for your acts of sex relationship?

A. No sir.

Q. Did you accept payment for such acts?

A. No.

Q. Did anybody solicit or engage men to come and visit you and engage in sex acts?

A. No.

Supervisory Investigator Kaler to respondent:

Q. Mrs. Woody, when is the very first time in your life that you had sexual relations with a man to whom you were not married?

A. I only had with men I knew, and you don't know any woman who don't have intercourse with a man if she thinks he love her.

Q. I repeat, when was the very first time you had intercourse with a man to whom you were not married?

A. I don't know how to answer that question.

Q. I would suggest that you tell the truth!

A. I always tell the truth, so far. It is hard to answer. I maybe had sex with somebody I don't want to have, and it was with a Russian or a Hungarian.

Q. What year was this?

A. In 1946.

Q. Where?

A. Hungary.

Investigator Porter to respondent:

Q. Budapest?

A. Yes.

[fol. 14] Supervisory Investigator Kaler to respondent:

Q. Did you receive money or other compensation for this act?

A. You mean from the first time?

Q. Yes.

A. How could I; I wasn't asking for being raped.

Q. When did you leave Hungary?

A. 1946.

Q. Where did you go from there?

A. To Germany.

Q. Where did you reside in Germany?

A. Erlangen.

Q. Were you in a displaced persons camp there?

A. About for three months, yes.

Q. Where did you move to when you left the displaced persons camp?

A. Eschenau.

Q. With whom did you live there?

A. My mother and two aunts.

Q. How long did you reside with your mother?

A. Two years. My mother died after that, then I moved to Erlangen. It is a city and my mother was in a hospital there.

Q. Where did you meet your former husband?

A. About a year and one-half before the baby was born.

Q. Where did you meet your former husband?

A. Nurnberg.

Q. With whom were you living at that time?

A. My myself.

Q. Were you living with your former husband prior to the time you were married?

A. No. He was stationed in Nurnberg and I was living in Erlangen.

Q. Did you have sexual intercourse with your former husband before you were married?

A. Do I have to answer that?

By attorney: Yes, go ahead.

[fol. 15] By respondent:

A. Yes.

Supervisory Investigator Kaler to respondent:

Q. When did this sexual relationship first start?

A. About six months.

Q. How frequent were these relations?

A. About once a month.

Q. Did you receive money or any other compensation for these acts?

A. No.

Q. Were you living together as man and wife with your former husband?

A. No.

Q. When did you first start living with your former husband?

A. After we were married in January.

Q. Did you engage in sexual acts with any other men in Germany while you were residing in Germany and prior to the time you met your husband?

A. No.

Q. Did you engage in sexual acts with any other men between the time you first met your former husband and when you were married to him?

A. No.

Q. With how many men did you have sexual relations prior to the time you married your husband?

A. I didn't.

Q. You better think about that answer!

A. I am thinking about it very good. I worked and had to support my mother in the hospital and did not have time to go out.

Q. I will repeat the question. With how many men did you have sexual relations prior to the time you met your husband?

A. That was the first time in Hungary.

Q. Who is the father of your son Leonard Clarence Woodby?

A. John Henry Woodby.

Q. With how many men have you engaged in sexual relations since your marriage to your former husband?

A. I don't know.

Q. About how many?

A. I was out with a couple of guys but I didn't have [fol. 16] sexual relations with them the first time. If I did have it was because I thought he loved me. I would say in answer to the question, about three times.

Q. Does your answer mean you had sexual relations with three men since your marriage to your former husband?

A. Yes.

Q. Where did these acts occur?

A. At my place.

Q. Where was this—at what address?

A. It was on 1500 W. River View.

Q. During what period was this?

A. About three years ago.

Q. What are the names of these men?

A. On W. River View it was Mr. Amicon.

Q. Who else did you have sexual relations with other than Mr. Amicon?

A. It was on Summit Court.

Q. Who with?

A. Bill Waddell.

Q. Who else?

A. Kincaid.

Q. Where does Mr. Waddell live?

A. I don't know.

Q. Where did he live at that time?

A. I don't know. He was living in Dayton.

Q. Where did Mr. Kincaid live?

A. In Dayton too.

Q. Where did you meet Mr. Waddell?

A. Through a girl friend.

Q. What payment or compensation did you receive from Mr. Waddell for your sexual acts?

A. No money; I was going with him.

Q. How many times did you have sexual relations with Mr. Waddell?

A. Twice.

[fol. 17] Q. Where did both these acts occur?

A. At my place.

Q. At what address was that?

A. 24 S. June St., Dayton.

Q. What is the name of the girl friend who introduced you to Mr. Waddell?

A. Ann Brolliss (I don't know how to spell her name).

Q. Where did she live?

A. Right behind Notre Dame.

Q. Was that a street which was parallel to Notre Dame?

A. Right behind Notre Dame; the next parallel street.

Q. Where was Ann working at that time?

A. She is married and not working.

Q. Was she living with her husband?

A. Yes.

Q. What is her husband's name?

A. Tom.

Q. Where did he work?

A. I don't know. The last time I know he was working in a filling station.

Q. Where?

A. I don't know.

Q. Where did you meet Mr. Kincaid?

A. I met him through my girl friend what helped me get a job?

Q. What is her name?

A. Freda Filow.

Q. Where does Freda live?

A. She live in Summit Court.

Q. Where was she employed?

A. McCroy's.

Q. Do you know where Freda lives now?

A. No.

Q. How many times did you have sexual relations with Mr. Kincaid?

A. Once.

[fol. 18] Q. Did you receive payment from him?

A. No sir.

Q. Have you had sexual relations with any other man other than Mr. Amicon, Mr. Waddell, Mr. Kincaid?

A. No.

Q. Has your son Leonard Clarence Woodby ever been ill?

A. So far as I know one time.

Q. Has he ever been in a hospital?

A. Yes.

Q. What was the nature of his illness?

A. I don't know.

Q. What hospital?

A. In Harlan, Ky.

Q. When was this?

A. I was living in Summit Court. I would say six or eight months after he was born.

Q. How did you become aware that your son was in the hospital?

A. Because my husband asked me for money.

Q. How long did he remain in the hospital?

A. One month.

Q. Did he have an operation?

A. That is what my husband said. I don't know.

Q. Who paid for the hospital bills?

A. I did. I gave my husband the money.

Q. How much money did this require?

A. \$300.

Q. Where did you get this money, Mrs. Woodby?

A. I loaned.

Q. Where did you borrow it?

A. Some from my employer.

Q. How much did you borrow from your employer?

A. \$150.00.

[fol. 19] **Q. Who was your employer?**

A. Neal Schoford.

Q. Where did you get the rest of the money?

A. I would rather not answer that question.

Attorney to respondent: I don't think there is anything wrong in answering that. Go ahead and tell them who you borrowed it from.

Supervisory Investigator to respondent:

Q. I repeat the question, where did you get the rest of the money?

A. From a man.

Q. What was this man's name?

A. Tom.

Q. What was his last name?

A. I don't remember. I think I do—Wally.

Q. Where does Tom Wally live?

A. I don't know.

Q. Where did he live then?

A. He lived in Dayton.

Q. What was the nature of his business?

A. Vacuum cleaner.

Q. Vacuum cleaner salesman?

A. Yes.

Q. Where did you meet him?

A. At my place. He demonstrated it.

Q. Have you paid back the loan of \$300.00?

A. Yes.

Q. Did you have sexual relations with Tom Wally?

A. No.

Q. When did you pay this \$150.00 to Tom Wally?

A. I paid him back when I got it.

Q. Did you repay him \$150.00 at one time?

A. No.

Q. Is Tom Wally married?

A. Yes.

[fol. 20] Q. What did you offer Tom Wally as security for this loan?

A. I didn't give him security.

Q. Mrs. Woodby, did you ever tell anyone that you had sexual relations with men in order to acquire money to pay for your son's hospitalization?

A. Yes.

Q. Whom did you tell this to?

A. I didn't. Tom Wally did.

Q. Tom Wally did; is that your answer?

A. Yes.

Q. How much of this \$300.00 did you acquire as a result of having sexual relations with men, Mrs. Woodby?

A. I don't ask for the amount.

Q. How much did you acquire—how much of that \$300.00?

A. I would say sometimes \$5.00 and sometimes \$10.00.

Q. Sometimes \$5.00 and sometimes \$10.00?

A. No, I did not ask for that.

Q. How much did you get?

A. They just gave it to me as a gift and I couldn't tell you how much it was.

Q. How much money did you get altogether? Was it \$200.00?

A. No.

Q. Was it \$250.00?

A. No.

Q. Did you receive \$200 altogether as a result of having sexual relations with men?

A. I don't ask for the money.

Q. The question is, how much did you receive?

A. I would say about \$40.00 or \$50.00.

Q. Altogether?

A. Yes.

Q. Was the \$40.00 or \$50.00 received from one man at one time?

A. No.

[fol. 21] Q. What is the last money you received from a man as a result of having sexual relations at any time?

A. I don't know.

Q. How much did you receive?

A. Sometimes they gave me as a present \$5.00. Once in a while they came up with something and gave me \$10.00.

Q. You did receive as you previously stated, a total of \$40.00 or \$50.00 as a result of having sexual relations with men?

A. I wouldn't say I had sexual relations, no.

Q. Did you have sexual relations with the men you received the money from?

A. No.

Q. Has anyone told you to answer the questions as to money received as a result of sexual relations with men in the negative? Have you been told to say you didn't receive money from men with whom you had sexual relations?

A. No.

Q. Where did you get the \$300.00 you paid back to these people?

A. My employer took it out of my pay. The rest I gave to him every week.

Q. In your answer to previous questions, you stated you had received a total of \$40.00 or \$50.00 as the result of having sexual relations with men. This time I would appreciate the truth.

A. When I needed the \$300.00, Mr. Wally came over to the house the first time I met him. I was crying this time and told him I could not afford a vacuum cleaner; that I had more important things to pay for, and he asked me what for and I told him. He told me he would show me first how I could have the \$300.00 if I needed it very bad. He told me and I did it because I needed money. Mr. Wally sent men to my place. I did not know at the time it was prostitution. If it was prostitution I did not recognize it as what I was doing. Men paid me \$10.00, and sometimes \$5.00. I didn't take the money. They laid it on the table. I didn't ask for the certain amount. After I had the \$300.00 I sent it to my husband. So far as I know the boy had the operation and is O. K. I am not sure if it was for the boy or if it was for my husband.

Q. How soon after you met Mr. Wally did you entertain and have sexual relations with a man he had sent to you?

A. About two months.

Q. Where did you live at that time?

A. The first time in Summit Court.

[fol. 22] Q. How often did Mr. Wally send you men for the purpose of having sexual relations?

A. Two a day.

Q. How many days a week?

A. Three or four days.

Q. What time of day was this?

A. After 1:30 after I got home from work.

Q. In the morning?

A. Afternoon. I was working from 11:00 A. M. to 1:30 P. M., and I went back to work at 5:00 P. M.

Q. What is the least amount you received from any men who were sent to you by Mr. Wally?

A. \$5.00.

Q. What was the most?

A. \$10.00—I would say \$15.00.

Q. To your knowledge, how much money did Mr. Wally receive from these men?

A. I don't know—about \$5.00 I think.

Q. How long did these arrangements continue?

A. About two months.

Q. Did these all occur at the Summit Street address?

A. Yes.

Q. Did he regularly send two men to you each day?

A. Not each day, because I was working. I would say about two each day.

Q. How many days a week?

A. About four.

Q. This continued for approximately eight weeks?

A. Yes.

Q. Do you know where Mr. Wally met these men?

A. No. I think he met them from car salesmen.

Q. Do you know who any of these men are?

A. No.

Q. Why did you terminate your arrangement with Mr. Wally?

A. Because I was home alone.

[fol. 23] Q. Why did you terminate this arrangement with Mr. Wally?

A. Because I had my \$300.00.

Q. These various other men you have named, Mr. Kincaid, Mr. Amicon, and Mr. Waddell, did you have relations with these men during the same period you were receiving men from Mr. Wally?

A. No sir. I met Mr. Amicon and he was the one who made me realize what I was doing.

Q. These men previously named, did you meet them after you terminated your arrangement with Mr. Wally?

A. Yes.

Q. All of them?

A. Yes.

Q. Have you engaged in sexual relations with any other men since the termination of your arrangement with Mr. Wally?

A. Not for payment, no.

Q. Were you so engaged prior to your arrangement with Mr. Wally?

A. What do you mean.

Q. Did you have sexual relations with men prior to your arrangement with Mr. Wally?

A. No.

Q. Did you ever receive payment from men for such relations prior to coming to the United States?

A. No sir.

Q. Are you now aware that the relations you had with men who were sent to you by Mr. Wally was prostitution?

A. I did not recognize it as that.

Q. Do you know now?

A. Now I know, yes.

Q. How did you break off your arrangement with Mr. Wally?

A. I just told him not to send anybody any more; I don't want to do it any more.

Q. Did Mr. Wally attempt to get you to continue this arrangement after that time?

A. Yes.

Q. Did he threaten you in any way?

A. Not direct.

[fol. 24] Q. In what way did he threaten you?

A. First he said he would report me.

Q. To whom did he threaten to report you to?

A. I guess the police.

Q. Did you recall the name of the vacuum cleaner he sold?

A. I don't know.

Investigator Porter to respondent:

Q. Was it Hoover?

A. I don't know.

Supervisory Investigator Kaler to respondent:

Q. When did you meet Mr. Amicon?

A. About three years ago.

Q. Where did you meet him?

A. I met him through a friend of his.

Q. Was this after the termination of your arrangement with Mr. Wally?

A. No. It was after I met Mr. Amicon that I quit the arrangement with Mr. Wally.

Q. What was the nature of your relationship with Mr. Amicon?

A. Friends.

Q. Did you live with him as man and wife?

A. No sir.

Q. Did you live with him?

A. I was not living with him.

Q. Did you have sexual relations with Mr. Amicon?

A. Yes.

Q. How long after you met Mr. Amicon did you commence having sexual relations?

A. Three months after.

Q. How long did this relationship continue?

A. The first sexual relationship is about three months after I met him.

Investigator Porter to respondent:

Q. The first time you met Mr. Amicon didn't he come to your apartment to have sexual relations with you?

A. Yes, he came for that but he did not after he came.

[fol. 25] Supervisory Investigator Kaler to respondent:

Q. Are you sure?

A. Yes, I am sure.

Q. Did he leave money in your room the first night he met you?

A. Yes.

Q. Why did you not have sexual relations with Mr. Amicon?

A. I guess he didn't want it after he met me.

Q. Did Mr. Wally send Mr. Amicon to you?

A. No, somebody else sent him.

Q. Do you know who this person is?

A. No. It could be Wally. I don't remember.

Q. How long did your relationship with Mr. Amicon continue?

A. I know him for three years already.

Q. Have you had sexual relations with Mr. Amicon regularly since the first time?

A. No.

Q. How long did you continue having sexual relations with Mr. Amicon?

A. Since we started going together until about six months ago.

Q. How frequently did you have sexual relations with Mr. Amicon?

A. Once or twice a week.

Q. How much money have you received from Mr. Amicon?

A. He did not pay me for that.

Q. How much money have you received from Mr. Amicon?

A. He helped me out when I needed it and I helped him out when he needed it.

Q. Approximately how much money did you receive from him altogether?

A. I would say I didn't receive money from him at all. If he needed money and I loaned it to him and he gave it back.

Q. Did he give you more than you gave him?

A. Yes.

Q. Did he ever pay your rent?

A. No.

Q. Did he ever buy you food?

A. Yes.

[fol. 26] Q. Did he buy you clothing?

A. Last year for Christmas he gave me a coat and a pair of slacks and a blouse.

Q. Did he ever buy you jewelry?

A. No, not as I recall.

Q. How often did he buy food and necessities for you?

A. He brought me food from his place where he is working.

Investigator Porter: He has a produce market.

Supervisory Investigator Kaler to respondent:

Q. As a result of the \$300.00 you received from your arrangement with Mr. Wally, did you also borrow money from your employer?

A. No sir. As I said before I changed my story.

Q. Your prior statement that you borrowed \$150.00 from your employer is untrue?

A. It is not true.

Q. Have you seen Mr. Wally since you terminated your arrangement with him?

A. No, I have not for about three and one-half years.

Q. Have you been approached by anyone since that time for the purpose of setting up a similar relationship?

A. No, just guys I had relationship with came back and asked me if I would do it and I said no.

Q. Did they come on their own?

A. Yes.

Q. Did they tell you they came on their own?

A. Yes, to try to get me to do it.

Q. Did Mr. Wally send you men after you told him you were finished?

A. Yes.

Q. What did you tell these men?

A. I told them I am not doing it any more.

Q. How long after you terminated your arrangement with Mr. Wally did you move?

A. About two months later.

[fol. 27] Q. Where did you move this time?

A. I was staying with my girlfriend for a while. She was living at 19 Cumberlain St. She lived there and I lived with her until she got married.

Q. What was her name?

A. Eileen Jackson.

Q. Do you know the names of any other girls who were working for Mr. Wally?

A. I know girls yes, but I don't know their names.

Q. How many other girls were working for Mr. Wally other than yourself?

A. So far as I know, two.

Q. Did they have employment other than working for Mr. Wally?

A. No.

Q. Were they engaged in prostitution on a full time basis?

A. I think so.

Q. Do you know the names of these girls?

A. No.

Q. Did you ever meet these girls?

A. One.

Q. Where was she engaged in prostitution?

A. I guess in her apartment. I don't know.

Q. Where did you meet her?

A. Through Mr. Wally.

Q. What physical location?

A. I don't remember, but Mr. Wally brought her to my place.

Q. Did this girl use your apartment for the purpose of engaging in sexual relations with men?

A. She did but I did not know it.

Q. Were you there at the time?

A. No.

Q. Where were you?

A. At work.

Q. Did this girl use your apartment for the purpose of engaging in prostitution without your knowledge?

A. Not with my knowledge, no.

[fol. 28] Q. Did Mr. Wally have your permission to send her there?

A. I don't know the girl. Mr. Wally said she is a good friend of his and he asked if she could stay until she got an apartment.

Q. How long did she stay in your apartment?

A. About a week or two.

Q. How did you become aware that she was using your apartment for the purpose of prostitution?

A. Because I interrupted her one time. She didn't expect me to come home.

Q. Did you come home early from work?

A. Yes.

Q. How long did she continue living in your apartment after that?

A. She move right away.

Q. Did you tell her to move?

A. Yes.

Q. Did other girls use your apartment for engaging in prostitution?

A. None. There wasn't anybody except her, and I just wanted to help her out.

Q. What was her name?

A. Jo.

Q. Do you know her last name?

A. No.

Q. Where was she from?

A. She said from Tennessee.

Q. Do you believe she was from Tennessee?

A. Yes, but later I find out she wasn't.

Q. Where was she from?

A. She was living here all the time. She still had her apartment. Mr. Wally brought her over and told me she just came to town and I didn't know it then.

Q. Where was the other girl who was working for Mr. Wally?

A. I don't know. I never met her.

Q. Other than the two you have mentioned, do you know any other girls in Dayton who were engaged in prostitution?

A. No.

Q. After you moved from your residence on Summit Street, did Mr. Wally attempt to send you men at the new address?

A. No.

[fol. 29] Supervisory Investigator Kaler to Investigator Porter:

Q. Mr. Porter, do you have any questions?

Investigator Porter to respondent:

Q. In your previous statement you have indicated you went to Knoxville, Tenn. Did you go to Knoxville as a result of Mr. Wally's request?

A. No.

Q. Did you know Mr. Wally at that time?

A. Yes. Oh, yes! I did.

Q. Did he ask you to go to Knoxville, Tenn. to practice prostitution?

A. Yes.

Q. Did he take you to Knoxville?

A. No.

Q. Did he furnish you transportation?

A. No.

Q. How long did you practice prostitution in Knoxville?

A. Not at all. I was working at the Brown Derby.

Q. Did you go to Knoxville for that purpose?

A. No, I did not. I went because after they found out in court that this Jo was practicing prostitution in my apartment they told me to leave.

Q. Who told you to move?

A. The court.

Q. Were you using a different name at that time?

A. No.

Q. What do you mean by the court?

A. The housing project.

Q. Where are your children living at this time?

A. Not with me, no.

Q. Have you taken any steps to obtain custody of your children?

A. Yes, I did.

Q. Has this been through legal court procedure?

A. Yes.

[fol. 30] Q. Who is representing you in your effort to obtain custody of your children?

A. Mr. James C. Bruck, Harlan, Ky., an attorney.

Q. Did you ever tell anyone you practiced prostitution in your native country in order to live?

A. No, because I paid my own way.

Investigator Porter: I have no more questions.

Supervisory Investigator Kaler to respondent:

Q. Mrs. Woodby, have you understood all of the questions asked you in this statement today?

A. Yes. Some of it was hard but I know what you mean.

Q. Do you have anything you wish to say at this time?

A. Yes, one thing. I am very sorry I got mixed up and got in that mess.

CLOSED

I certify that the foregoing record of statement, pages 1 through 22, is a true and correct transcript of the testimony recorded by me at the time the statement was made.

Alice C. Ballinger, Reporting Stenographer.

[fol. 32]

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

ORDER TO SHOW CAUSE AND NOTICE OF HEARING—
January 9, 1962

In Deportation Proceedings under Section 242 of the
Immigration and Nationality Act

File No. A10 331 472

UNITED STATES OF AMERICA:

In the Matter of
ELIZABETH ROSATIA WOODBY, Respondent.

To Elizabeth Rosatia Woodby, 940 Old Orchard, Dayton,
Ohio.

Upon inquiry conducted by the Immigration and Naturalization Service, it is alleged that:

1. You are not a citizen or national of the United States;
2. You are a native of Hungary and a citizen of Germany;
3. You last entered the United States at New York, N. Y. on or about February 7, 1956;
4. You have engaged in prostitution after entry.

And on the basis of the foregoing allegations, it is charged that you are subject to deportation pursuant to the following provision(s) of law:

Section 241(a)(12) of the Immigration and Nationality Act, in that, by reason of conduct, behavior or activity at any time after entry you became a member of any

of the classes specified in section 212(a)(12), to wit, aliens who have engaged in prostitution.

Wherefore, You Are Ordered to appear for hearing before a Special Inquiry Officer of the Immigration and Naturalization Service of the United States Department of Justice at 708 U.S. Post Office & Courthouse Bldg., Cincinnati, Ohio, on January 25, 1962 at 10:00 a.m., and show cause why you should not be deported from the United States on the charge(s) set forth above.

Dated: January 9, 1962

Immigration and Naturalization Service, Richard G. Hill, Acting Assistant District Director, Investigations, Cleveland, Ohio.

[fol. 33] Notice to Respondent

The Copy of This Order Served Upon You Is Evidence of Your Alien Registration While You Are Under Deportation Proceedings. The Law Requires That It Be Carried With You at All Times.

If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Immigration and Naturalization Service. You should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you should bring the original and certified translation thereof. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

When you appear you will be permitted, if you wish, to admit that the allegations contained in the Order to Show Cause are true and that you are deportable from the United States on the charges set forth therein. Such admission may

constitute a waiver of any further hearing as to your deportability. If you do not admit that the allegations and charges are true, you will be given reasonable opportunity to present evidence on your own behalf, to examine the Government's evidence, and to cross-examine any witnesses presented by the Government.

Whether or not you admit your deportability, you will have an opportunity at the hearing to apply for any discretionary relief from deportation to which you believe you are entitled.

Failure to attend the hearing at the time and place designated hereon may result in your arrest and detention by the Immigration and Naturalization Service without further notice, or in a determination being made by the special inquiry officer in your absence.

Request for Prompt Hearing

To expedite determination of my case, I request an immediate hearing, and waive any right I may have to more extended notice.

.....
(signature of respondent)

.....
(date)

Before:

.....
(signature and title of witnessing officer)

Certificate of Service

This order and notice were served by me on January 9, 1962 in the following manner:

Served on respondent in person, Room 210, U. S. Post Office, Dayton, Ohio.

W. Nelson Brown.
Inv.

[fol. 34]

UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

In Deportation Proceedings

File A10 331 472

Matter of

ELISABETH ROSALIA WOODBY, Respondent.

Transcript of Hearing Before Special Inquiring
Officer of March 28, 1962

Before Special Inquiry Officer Richard P. Lott.

Hearing held on March 28, 1962, at Federal Building,
Cincinnati, Ohio.

Recorded by Gray Audograph machine.

Transcribed by Hays Campbell.

Language English.

APPEARANCES

In Behalf of Service:

W. Nelson Brown, Examining Officer, Cincinnati, Ohio.

In Behalf of Respondent:

Sidney G. Kusworm, Sr., Esquire, Jacob A. Myers, Es-
quire, 403 Keith Building, Dayton, Ohio.

[fol. 35] Special Inquiry Officer: This is a deportation hearing accorded Elisabeth Rosalia Woodby, file A10 331 472, by reason of the issuance of an order to show cause dated January 9, 1962. The hearing is being held on March 28, 1962, at the Federal Building, Cincinnati, Ohio, before

Special Inquiry Officer Richard P. Lott. The respondent will testify in the English language. Appearances: On behalf of respondent, Sidney G. Kusworm, Sr., Esquire, and Jacob A. Myers, Esquire, 403 Keith Building, Dayton, Ohio; on behalf of the Service, no one.

Special Inquiry Officer to Respondent:

Q. Now, Mrs. Woodby, this hearing is being held as I've explained because this order to show cause has been issued, but before we open the hearing I have a few preliminary statements and questions. Now, do you speak and understand English?

A. Yes.

Q. Will you stand and raise your right hand, please? Do you solemnly swear that all the testimony that you shall give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

A. I do.

Q. You may be seated. Will you repeat your name, please?

A. Elisabeth Rosalia Woodby.

Q. And what is your age?

A. Twenty-nine.

Special Inquiry Officer: Now, this order to show cause is the Government's statement that you are subject to deportation and the purpose of this hearing is to make that de-[fol. 36] termination whether you are now subject to being deported and also to give you a chance to state your reasons why you should not be deported. Will counsel identify themselves for the record?

Mr. Kusworm: I am Sidney G. Kusworm, Sr., Dayton, Ohio, 403 Keith Building. I'm a member of the federal bar and the bar of the State of Ohio, and practicing law for fifty-four years.

Mr. Myers: I'm Jacob A. Myers, associated with the law firm of Kusworm and Kusworm, 403 Keith Building, Dayton, Ohio, member of the Ohio bar and of the federal bar.

The Special Inquiry Officer: As counsel know, at this hearing you have the right to examine all the evidence, present evidence in your own behalf, object for the record to anything that you consider improper, and to cross-examine any Government witnesses.

By Special Inquiry Officer to Respondent:

Q. Have you received a copy of this order to show cause?
A. Yes.

The Special Inquiry Officer: The original will be entered as a matter of record as Exhibit No. 1.

The Special Inquiry Officer: And, as counsel know, the Government relies upon the accuracy of the four allegations to sustain the charge of deportability. I assume that the first allegation, that the respondent is not a citizen or national of the United States, will be admitted?

[fol. 37] Mr. Kusworm: I think so, yes.

The Special Inquiry Officer: And the second, that she is a native of Hungary and a citizen of Germany, will that be admitted? The answer is yes?

Mr. Myers: Yes, sir.

The Special Inquiry Officer: And the third, that she last entered the United States at New York, New York, on or about February 7, 1956, is that admitted?

Mr. Myers: Yes, sir.

The Special Inquiry Officer: And the fourth, that she has engaged in prostitution after entry, I understand that is disputed?

Mr. Kusworm: Yes, sir.

The Special Inquiry Officer: The record will show the appearance of W. Nelson Brown, Examining Officer, Cincinnati, Ohio, on the issue of deportability as raised by the fourth allegation in the order to show cause. You may proceed, Mr. Brown.

By Mr. Brown to Respondent:

Q. Mrs. Woody, I believe that you came to this office in November, November the 20th, and at that time, November

20, 1961, at that time you made a statement before Investigators Larry J. Porter and E. A. Kaler in company with your counsel, then Earl H. Moore of Dayton. Is that correct?

[fol. 38] A. That is correct.

Mr. Brown to the Special Inquiry Officer: I have here a record of the testimony of sworn statement made at that time which I should like to present to the special inquiry officer for his information and inclusion in the record of this proceeding. This is a transcript made by the stenographer, Reporting Stenographer Alice C. Ballinger, at the time that this was made. I present this . . .

Mr. Kusworm to the Special Inquiry Officer: Is it signed? Is it signed by her? We've never seen it, your honor, and therefore object to its introduction.

The Special Inquiry Officer: Well, I think that counsel should first examine it so that you can make whatever objections you have. We will recess while you examine it.

Hearing Recessed.

Hearing Resumed.

Mr. Kusworm to the Special Inquiry Officer: If your honor pleases, you were kind enough to declare a recess to give us the opportunity to read this statement with our client, which had not been seen by us before. After reading it, we find that there are certain discrepancies in the statement, dates, etcetera, and we object to its introduction and suggest that the distinguished examiner for the Service interrogate the witness on any items that appear in the statement, at the present time.

The Special Inquiry Officer: Is that satisfactory to you, Mr. Brown?

[fol. 39] Mr. Brown: Counsel, is the objection on the basis that the statement is not correct or is the objection on the basis that—in other words, that the statement was not understood? I'm not clear as to just what the objection is.

Mr. Kusworm: We object on the ground that it is not correct in certain parts and, because she's a foreigner, there

are certain questions that could not have been understood by her or she wouldn't have answered as she did, because we've gone into the case thoroughly with her and we know the truth of the matter, and we want to bring out the truth, all of the facts in this case.

By Mr. Brown to Respondent:

Q. Do you admit that you made this statement here on that date? After examining it, that this could be the same record of your statement?

The Special Inquiry officer: Speak up, please.

Mr. Kusworm: In certain respects? He wants to know if everything there, that is in that statement, is correct.

By Respondent:

A. Not everything, no.

By Mr. Brown to Respondent:

Q. Then could you state . . .

A. But I did change my story and I did tell the truth.

Q. You did what? I didn't hear you.

A. Well, at first I tried to help myself I guess and I didn't tell the truth first, but then in the end I did—told Mr. Porter, the bigger fellow here, that I want to make a statement [fol. 40] and tell the whole truth.

Q. And you had counsel present when this statement was made, did you not?

A. Yes.

Mr. Brown to the Special Inquiry Officer: And the objections of counsel, Mr. Special Inquiry Officer, as far as I can see are such that I would request before I proceed with any further examination a ruling on the objection to the introduction of this statement.

The Special Inquiry Officer: Well, I think under our regulations I'm obliged to accept it.

Mr. Kusworm: Note our exception.

Mr. Brown to the Special Inquiry Officer: I want this to be an exhibit in this proceeding.

The Special Inquiry Officer: It will be accepted as Exhibit 2.

Mr. Kusworm: To which we object.

By Mr. Brown to Respondent:

Q. Mrs. Woodby, where are you living at the present time?

A. At 940 Old Orchard, Dayton, Ohio.

Q. Since you were in this office on November 20, 1961, have you changed your marital status in any way?

Mr. Kusworm: You might explain what that means. She's a foreigner.

By Mr. Brown to Respondent:

[fol. 41] Q. Have you changed your marital status? In other words, have you been married or in any other way changed your status from a single person to a married person?

A. No, not yet.

Q. You are a widow, is that correct?

A. (no audible answer)

Q. Where are you working?

A. At Neil's Restaurant, Dayton, Ohio.

Q. The same place that you were employed when you were here last November?

A. Yes.

Q. You're employed there as a waitress, is that correct?

A. Yes.

Q. Mrs. Woodby, I note in Exhibit No. 2 here on Page 13 certain questions and answers which I would like to read to you and get your answers to. The question was asked, "In your answer to previous questions, you stated you had received a total of \$40 or \$50 as a result of having sexual relations with men. This time I would appreciate the truth."

The answer: "When I needed the \$300.00, Mr. Wally came over to the house the first time I met him. I was crying this time and told him I could not afford a vacuum cleaner; that I had more important things to pay for, and he asked me what for and I told him. He told me he would show me first how I could have the \$300 if I needed it very bad. He told me and I did it because I needed money. Mr. Wally sent men to my place. . . . I did not recognize it as what I was doing. Men paid me \$10.00 and sometimes \$5.00. I didn't take the money. They laid it on the table. I didn't ask for a certain amount. After I had the \$300.00 I sent it [fol. 42] to my husband. So far as I know the boy had the operation and is O.K. I am not sure if it was for the boy or if it was for my husband." Question: "How soon after you met Mr. Wally did you entertain and have sexual relations with a man he had sent to you?" Answer: "About two months." "Where did you live at that time?" "The first time in Summit Court." "How often did Mr. Wally send you men for the purpose of having sexual relations?" "Two a day." "How many days a week?" "Three or four days." Question: "What time of day was this?" "After 1:30, after I got home from work." Question: "In the morning?" "Afternoon. I was working from 11:00 A.M. to 1:30 P.M., and I went back to work at 5:00 P.M." "What is the least amount you received from any men who were sent to you by Mr. Wally?" "\$5.00." Question: "What was the most?" "10.00—I would say \$15.00." "To your knowledge, how much money did Mr. Wally receive from these men?" Answer: "I don't know—about \$5.00 I think." Question: "How long did these arrangements continue?" Answer: "About two months." Question: "Did these all occur at the Summit Street address?" Answer: "Yes." Question: "Did he regularly send two men to you each day?" "Not each day because I was working. I would say about two each day." Question: "How many days a week?" "About four." Question: "This continued for approximately eight weeks?" Answer: "Yes." Question: "Do you know where Mr. Wally met these men?" Answer: "No. I

think he met them from car salesmen." Question: "Do you know where any of these men are?" Answer: "No." Question: "Why did you terminate your arrangement with Mr. Wally?" Answer: "Because I was home alone." Question: "Why did you terminate this arrangement with Mr. Wally?" Answer: "Because I had my \$300.00." Are those questions and answers as I have read them to you correct, [fol. 43] Mrs. Woodby?

A. That's what I said.

Q. Were you ever arrested in Dayton, Ohio?

A. No.

Q. Did the police ever come to your home?

A. Yes.

Q. What month was that?

A. It's not too clear at this time.

Q. How many years ago was it?

A. Three years—four years.

Q. Four years ago? Could it have been around February 27, 1959?

A. It could be, but I'm not sure.

Q. What happened? Why did the police come around?

A. I don't know right why, but they wanted to take a statement from me about practicing prostitution.

Mr. Kusworm: Talk up. I've got to hear you. What did you say just now?

By Respondent: They don't ask for her. They won't take her from me without a positive promise to pay. What if I don't pay.

By Mr. Kusworm to Respondent:

Q. Well, did you give them the statement?

A. No, I did not.

By Mr. Brown to Respondent:

Q. Did you go to court?

A. No, I did not.

[fol. 44] Q. Was anybody else present at the time that they came in?

A. Yes, Mr. Amicon and my child.

Q. And your child. You mentioned that the police asked you to make the statement, but you didn't make the statement, is that right?

A. I couldn't. I was not a prostitute.

Q. In other words, then, did you deny to them that you were practicing prostitution?

A. That's right, because I let them in without the search warrant, but he wanted to take my child away and put her in Shawn Acres. He comes to get a statement from me that I was practicing prostitution. Mr. Amicon was there and my child. The door was open. He knocked on the door and he come in and wanted to talk to me. "I did not get a search warrant to come in, but I'd like to get this written down about the little girl." So he wanted me to sign the papers.

Mr. Kusworm:

Q. The what?

A. Sign some papers.

Q. Oh, papers?

A. Yes, papers.

Q. All right.

A. Said he probably was going to take the child and put her in Shawn Acres.

Q. Put the child where?

Mr. Brown: Shawn Acres.

Mr. Kusworm: Oh, Shawn Acres. That's a home for children. Go on.

[fol. 45] The Respondent:

A. And I'm not so sure if I signed those papers or not. I never was in court.

By Mr. Brown to Respondent:

Q. Is that the only time the police ever came to your residence, to your home?

A. Yes.

Q. Were you ever questioned by the police at any other time in connection with alleged prostitution?

A. No, sir.

Q. Now, you have stated that the time that this Wally, I believe it is, sent men to you, that you acquired a total of about \$300, is that right?

A. Yes.

Q. And what was your reason for needing the \$300?

A. I was working and I had my little girl and I was supporting her. My husband, he called me long distance the day before. He told me that he needs \$300 to give to the hospital and I asked him when the boy gets in and he told me same day and he needs operation the next couple of days. He needs the money, but he can't—they won't operate on the boy because he doesn't have insurance, said he needed cash. And I told him that I would try to get it if I can, it sounded strange, but I don't have it. And I was supposed to get it where I was employed by my employer, that's the next day, the day that Mr. Wally was up there giving shows to people and I was crying when he drove up there.

By Mr. Kusworm to Respondent:

Q. Why were you crying?

[fol. 46] A. I was crying because I needed the \$300 and I didn't know some place to get it.

Mr. Kusworm: Go ahead. I just wanted to interrogate her as to what her husband told her about what would happen to the child if she didn't pay the \$300.

The Respondent: And Mr. Wally told me that he could tell me how to get the money fast if I needed it. And I asked him what he means and he told me. And I said, "No, I can't do it." He said, "Well," he says, "I would not cry

about this money, not so bad as you think." He went outside and he brought a fifth in from the car.

By Mr. Kusworm to Respondent:

Q. He did what?

A. A bottle.

Q. He went outside and got it?

A. Yes. Then he come back. And he was with another gentleman, there was two, and they sat at the table and I was not used to drinking at the time and I was drinking and they take some pictures first on the table.

By Special Inquiry Officer to Respondent:

Q. Pictures from you or of you?

A. Both.

By Mr. Kusworm to Respondent:

Q. Pictures of you?

A. Well, of me.

Q. They wanted to show them, is that it?

A. Yes. And then Tom Wally, Mr. Wally, he stop by every day. He'd send me the guys and he always brought [fol. 47] the bottle and I was drinking heavy at the time and even after that I had the \$300, I told Mr. Wally that I don't want to see him any more, I got through.

Q. What about after you got the \$300? I just want to hear you and I want the judge to hear you?

A. After I had the \$300 I sent it to my husband. And Tom Wally still come around sending customers and I told him I was through, I don't have nothing to do with it.

Q. Were you through?

A. I was, yes. He frightened me at first. He told me he was going to go to the immigration and tell them and the police that I think of it, if I don't do it again.

Q. Who told you that?

A. Tom Wally. He frightened me and I guess I did it for

—I don't want to lie—I think it was another two weeks. See, I met Mr. Amicon. He asked me—told me what I was doing.

Q. And what did you?

A. I sent the \$300 away.

By Special Inquiry Officer to Respondent:

Q. I don't understand you.

A. I sent the \$300 to my husband, but much later than I find out here, working here all day.

Q. Well, this \$300, weren't you able to accumulate that?

A. No. Yes, I accumulated it.

Q. And was it after the three months you sent the money to your husband?

A. No, I sent it as quick as I had it.

[fol. 48] By Mr. Kusworm to Respondent:

Q. The man wants to know whether he held it.

A. Yes, Mr. Wally give me this \$300, but I had to work it for him out.

By Special Inquiry Officer to Respondent:

Q. You mean you had to pay him back?

A. Yes. And when I had it, I suppose he threatened me if I don't do it again because he missed the money and as far as I was concerned I didn't feel very much about this man, who he was or what. And he threatened he was going to report me to the immigration if I did it—if I'm not going to do it. I guess he did it because it was all in the newspapers. But I did quit.

By Mr. Kusworm to Respondent:

Q. You did what?

A. I was through.

Q. And how long ago was this?

A. I told you I had it figured about two months.

Q. Since you quit how long?

A. (Note: Discussion here. No definite answer given.)

By Mr. Brown to Respondent:

Q. You have stated that you carried on this arrangement with Mr. Wally sending men to you for a period of about eight weeks. Is that correct?

A. Yes.

Q. And would you state approximately when was the last time that he sent a man to you for purposes of prostitution?

A. Four years.

Q. About four years ago, is that right?

[fol. 49] A. Four or five years ago.

Q. And where were you living at that time, Mrs. Woodby?

A. Summit Court.

Q. When did you leave Summit Court?

A. About five years.

Q. And did you leave Summit Court shortly after you ceased having these relations?

A. Yes.

Q. And you stated earlier I believe that Mr. Wally threatened you and was reporting you . . .

A. Correct.

Q. . . . to these other authorities. I note in your statement here on Page 15 of Exhibit 2, these questions, two questions that I'd like for you to explain, if you will please. Question: "Did Mr. Wally attempt to get you to continue this arrangement after that time?" "Yes." "Did he threaten you in any way?" The answer is, "Not direct." "In what way did he threaten you?" Answer: "First he said he would report me." Question: "To whom did he threaten to report you to?" Answer: "I guess the police." Is that correct?

A. To the immigration men. He knew that I wasn't an American citizen.

Q. When you first met him, you have indicated that he took pictures of you.

A. Yes, that's correct.

Q. Were these pictures that if they were shown to somebody else would cause you embarrassment?

A. I think so.

Q. Were they pictures that were posed without clothing?
[fol. 50] A. That's correct.

Q. And was that the only time that you ever took such pictures?

A. The only time.

Q. Was that the only time you ever posed for such pictures?

A. Correct.

Mr. Brown: Now, you've mentioned the children and I believe, Mr. Special Inquiry Officer, that the facts relating to these children are all in this Exhibit 2. If the special inquiry officer desires to let me, to ask questions concerning these children at this time, their whereabouts and so on. If not, they are in Exhibit 2 for his consideration.

The Special Inquiry Officer: Well, suppose that the special inquiry officer now reads this exhibit.

Mr. Brown: Very well.

The Special Inquiry Officer: I won't be the only one in the room who is unfamiliar with this exhibit, then. We'll recess.

Hearing Recessed.

Hearing Reconvened.

Mr. Brown: If you want me to question the respondent concerning her children. Having read the statement, do you desire any questions at this time from the examining officer, Mr. Lott?

The Special Inquiry Officer: I don't think so.

[fol. 51] Mr. Brown: At this time, Mr. Lott, I should like to conclude any questioning on behalf of the Government, but of course subject to any further inquiry.

The Special Inquiry Officer: Do you have anything further to submit at this time, Mr. Brown?

Mr. Brown: I have one witness that has been subpoenaed by the Government today that I should like to present.

The Special Inquiry Officer: You may proceed.

ANTHONY AMICON introduced as a witness for the Government:

By Special Inquiry Officer to Witness:

Q. Will the witness stand and raise his right hand, please? Do you solemnly swear that all the testimony that you shall give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

A. I do.

Q. You may be seated. Will you state your name, please?

A. Anthony Amicon.

The Special Inquiry Officer: You may proceed, Mr. Brown.

By Mr. Brown:

Q. Mr. Amicon, where do you live?

A. 323 Fountain Avenue, Dayton, Ohio.

Q. Are you a native-born citizen of the United States?

A. Yes, sir.

Q. I believe, Mr. Amicon, that you appeared at this office [fol. 52] on November the 15th, 1961. At that time you made a statement in the case of the respondent, Elizabeth Woodby, before Investigator Larry J. Porter and I have a transcript of that statement that I would like to show you at this time and ask you to examine it with counsel. Mr. Amicon, having read this record of sworn statement, do you now state that these answers that you gave to the questions therein are true and correct as they stand?

A. To the best of my knowledge, yes, sir.

Q. Mr. Amicon, I would like to question you concerning the first part of this statement taken from you here.

Mr. Myers to the Special Inquiry Officer: May I make an objection in the record to that one question, or will you withdraw that one question?

Mr. Brown: I haven't made any offer on it yet.

Mr. Myers: Oh, no offer? All right.

By Mr. Brown:

Q. Mr. Amicon, when did you meet Mrs. Woodby, approximately when?

A. 1957, approximately I think around October.

Q. You stated in this statement that you met her at the place where she works, Neil's Restaurant.

A. Yes, sir.

Q. Furthermore, that she was employed there as a waitress, is that correct?

A. Yes, sir.

Q. It is noted that you stated that the manner in which you met her was you went there with a friend to eat and the friend knew her and told you about her and he intro-[fol. 53] duced you to her.

A. Yes, sir.

Q. And that before he introduced her to you, he told you that she was "in the business" and in answer to the question, "What do you mean in the business," your answer is, "That you could pay for companionship or sexual intercourse or what have you." Is that correct?

A. I retract part of that, if I may. I mean, actually what has come to my mind since that time. I was separated from my wife and living with this friend and he was eating up there all the time, so one evening I went up there to eat with him and seeing this good-looking girl why I commented and then I found out, then is when he told me, not prior to the time.

Q. You have indicated that you had visited her in her apartment after you had . . .

A. On her request.

Q. Since making this statement on November 15, 1961, have you changed your marital status in any way?

A. Yes, I had a divorce proceeding come up December the 8th which was prolonged now until May the 13th. April the 3rd is the—I have a reduction of payments coming up and get my final hearing for the divorce action in May. I

have all my papers set up and everything. It will be approximately April 23rd.

Q. When you went to see her you say in the statement that the problem of her needing money was discussed.

A. We discussed her childhood life, her life over here, and of course the financial problems that she was having, and had had, and so on.

Q. You stated that on the first occasional visit you gave [fol. 54] her \$10. Did you have sexual relations at time?

A. No, sir, I did not.

Transcriber's Note: Two questions and answers here are unintelligible.

Q. And what is your relationship with her now?

A. We're on very good terms.

Q. What?

A. On very good terms. I would like to marry this girl if I can get my divorce.

Q. Do you plan to marry her if you get a divorce?

A. I've given her a ring.

Mr. Brown to the Special Inquiry Officer: I would like Mr. Amicon's statement introduced, Mr. Special Inquiry Officer, into this proceeding and made a part of it.

The Special Inquiry Officer: Now, Mr. Myers, do you want to make a correction on this before I accept it?

Mr. Myers: Yes, sir. There is one question on the last page where the third to the last question on Page 7, where there was two questions asked in one sentence and there's a "no" answer. Mr. Amicon has stated to me and I think he should state for the record what he intended by this answer, so we know which part of the question this answer is referring to.

The Special Inquiry Officer: Do you wish to clarify that, Mr. . . .

By Mr. Brown:

Q. The question on which counsel for respondent asks for [fol. 55] clarification is, "To your knowledge, other than the

times you paid Mrs. Woodby when you first met her for her acts of prostitution, do you know of any other persons with whom she engaged in such acts?" The answer is, "No, sir." Now, to rephrase this question, did you pay Mrs. Woodby for acts of prostitution?

A. The answer to that is no.

Q. The second question is, do you know of any other persons with whom she engaged in such acts?

A. (unintelligible)

Q. Now you recall that at the first visit to her you stated that you gave her \$10, the first time you went up there. What was this for?

A. (unintelligible)

Q. But this \$10 that you paid her was not to practice prostitution, is that correct?

A. (unintelligible)

The Special Inquiry Officer: It will be received as Exhibit 3.

By Mr. Brown:

Q. Mr. Amicon, you have stated that you are still married.

A. Yes, sir.

Q. But that you have been separated from your wife. How long has it been since you have been separated?

A. Pretty near five years.

Q. Did the separation occur subsequent to the time that you met Mrs. Woodby or prior?

A. Prior. I was living with this person when I met her there.

[fol. 56] Q. The person who introduced you to the respondent, I believe Mr. Boling?

A. Boland.

Mr. Brown to the Special Inquiry Officer: I have no other questions of the witness or of the respondent and the Government has no other witnesses to present.

The Special Inquiry Officer: Does counsel wish to question the . . .

Mr. Kusworm: We have a few questions, if your honor pleases. We would like to ask Mrs. Woodby for clarification and also Mr. Amicon.

Mr. Myers to the Special Inquiry Officer: Shall I take Mr. Amicon first?

The Special Inquiry Officer: Yes, that's cross-examination.

By Mr. Myers:

Q. Mr. Amicon, you have stated that during a period of time after you met Mrs. Woodby that you gave her certain sums of money. Now, to clarify this, why did you give her sums of money?

A. The reason I gave her sums of money was on one occasion, it states in the record there, that she wanted to go down to pick up the children and at that time she didn't have the money to go. It would take almost a hundred dollars to make the trip to Harlan, Kentucky, pick up the children and bring them back.

Q. Did you ever pay Mrs. Woodby any money for any act of prostitution?

A. I never did, sir.

Q. This first \$10 that you gave her when you first went [fol. 57] to the girl's apartment, was there any sexual relations between you?

A. There were not any sexual relations between us two.

Q. And your relationship with Mrs. Woodby now is that you plan on marrying her at the termination of your present marriage?

A. You have the statement there from the time that I met her our friendship grew into love. I knew of her story. She told me about what had happened to her, what she had done, why she had done it, and that's how it ends up, with her and I becoming closer together.

Q. Have you . . .

A. (unintelligible)

Witness excused.

Mr. Myers: We will now have the testimony of Mrs. Woodby.

By Mr. Myers:

Q. Mrs. Woodby, you married your husband while he was stationed in Germany with the United States armed forces?

A. Yes, sir, I did.

Q. How long were you married before he came to the United States?

A. A year.

Q. Did you have a child at that time in Germany?

A. Yes, sir.

Q. And what was that child's name?

A. Gloria Elisabeth Woodby.

Q. He left Germany to come to the United States and you were there approximately a year . . .

A. A year and a half.

[fol. 58] Q. A year and a half. Now, where did you move to when you came to the United States?

A. We went to Kentucky with his parents.

Q. Was he supporting you while he remained in Germany?

A. No, sir, he did not.

Q. While you were in Germany did you engage in any acts of prostitution?

A. No.

Q. Had you ever engaged in any acts of prostitution up until the time of your marriage?

A. No, sir.

Q. When you came to the United States approximately a year and a half after he left, was that the date of your entry on February 7, 1956?

A. Correct.

Q. Did your husband meet you at New York at that time?

A. Yes, he did.

Q. And you had your child with you?

A. Yes.

Q. Where did you go from New York?

A. To Harlan, Kentucky.

Q. And who did you live with in Harlan, Kentucky?

A. With my in-laws, the mother and father and a sister.

Q. Your mother-in-law and your father-in-law and your sister-in-law and you and your husband and your child?

A. Yes.

Q. Were living in one house. How large was the house?

A. There's two bedrooms, a living room, and a kitchen there.

[fol. 59] Q. Did you and your husband and the child have one of the bedrooms?

A. Yes.

Q. Was your husband working during that period of time?

A. No, sir.

Q. How long did you live in Harlan, Kentucky after you arrived?

A. Six or seven months.

Q. And your husband never worked during that time?

A. No.

Q. Did he suggest that you leave Harlan, Kentucky, and go someplace else where you could find work?

A. No, he did not. I suggested it to him.

Q. You suggested it?

A. Yes, I was expecting my second child.

Q. At that time. When did you deliver your second child?

A. The 13th of August.

Q. What year? Well, you arrived in New York in 1956.

A. The same year.

Q. The same year? In August of 1956 you gave birth to what child?

A. Leonard Clarence.

Q. Now, at that time were you still living in Harlan, Kentucky?

A. No, because we had been here living with my other sister-in-law.

Q. With your husband's sister?

A. Yes.

Q. How long had you been living in Dayton, Ohio, at that time?

A. We was moving in an apartment a month before the child was born.

Q. Well, how long had you been in Dayton?

[fol. 60] A. We moved from one sister to another sister-in-law.

By Mr. Kusworm:

Q. A short time?

A. A short time.

By Mr. Myers:

Q. All right. Now, when you lived with your sister-in-law at Fairborn, was your husband looking for a job?

A. Yes, he was.

Q. Did he ever find a job?

A. No, he did not.

Q. And approximately how long did you live with that sister-in-law?

A. Through the childbirth it was.

Q. And then you moved into an apartment?

A. Yes.

Q. And where was that apartment?

A. 528 Notre Dame.

Q. Now, when you were at 528 Notre Dame, was your husband still looking for a job?

A. He just find a job before. I get him the job.

Q. You got him the job?

A. Yes. I had to go to the doctor and my sister was taking me to a German doctor. I could not speak English good and I was taken to the German doctor, and I told him

my problem and when I come over here and he says he could get a job for my husband.

Q. I see. Now, how long did you live at 528 Notre Dame?

A. About four months.

[fol. 61] Q. Four months? And then why did you leave there?

A. I left. As soon as the child was born, the second, my husband took my little girl to Kentucky. When I came out of the hospital I didn't have no job there and the son was injured and still in the hospital, too. At that time my husband worked in a filling station, but he come home about some three or four o'clock in the morning. I didn't know where he was or what he was doing until he gets a registered letter and I asked him for this letter because I decided that I wanted to see it. And he didn't show me the letter, burned it. I don't know where the letter come from. Any-way, we get an argument and I wanted to leave him and the little boy was just come out of the hospital and he said to me, "If you travel, you'll travel without the child" I didn't want to get in any trouble because of me not being a citizen. I'd better let the child go. So, I did. He give me ten dollars and he put me on the bus to go to Pennsylvania to my girl friend what I know from Germany. I went down there, but I returned the next day. The day I come back the child was gone and the apartment was empty. I didn't have no money.

Q. What did you do then?

A. I meet a girl.

Q. Then your husband forced you onto the bus almost at gun point?

A. Yes, he give me ten dollars and put me on the bus.

Q. And put you on the bus with ten dollars and sent you to Pennsylvania to your girl friend's house. And when you got to Pennsylvania you wanted to come back to your little child?

A. Yes.

Q. Did you have any money so you could come back?

[fol. 62] A. My girl friend gives me the money to come back.

Q. She gave you bus money to come back?

A. Yes.

Q. And you came back to Dayton, Ohio, the next day?

A. That's right.

Q. And you went to your apartment on Notre Dame?

A. Yes.

Q. And your husband was gone?

A. Yes, and the children.

Q. Both children were gone, too?

A. The first child was in Kentucky already. (unintelligible sentence)

Q. I see. Your daughter was in Kentucky when you went to the hospital, and you didn't have anybody to stay with the child.

A. That's right.

Q. I see. So you came back to the apartment and he was gone, your child was gone, and everything else was gone.

A. I come back from Pennsylvania because the baby was sick with the flu.

Q. Were you sick at that time?

A. Yes, I was sick, too.

Q. What was wrong with you?

A. I guess it was the aftereffects. I was going back to working and keeping house and everything and I wasn't feeling good. Then the boy was sick and I couldn't take him on the bus. I went to Pennsylvania, but I returned the next day because I know the boy wasn't well, but he was gone, his clothes and everything wasn't there.

Q. Well, where did you live then, when you came back to the apartment?

[fol. 63] A. I stayed in an apartment until I find a job.

Q. Where, in the same apartment on Notre Dame?

A. Yes.

Q. This was a furnished apartment then?

A. Yes.

Q. And where did you find a job?

A. At McCrory's, the five and ten cent store down town.

Q. All right. How long did you work in McCrory's?

A. Three months.

Q. And then where did you go?

A. Then I find a job where I am still working now.

Q. At Neil's?

A. Neil's Restaurant.

Q. Now, what happened this one day when you received a phone call from your husband? This happened right after you went to work for Neil's?

A. Yes.

Q. All right. And you were living on Orchard?

A. No, I was living on—this time I had a phone call from my husband I was living at Summit Court. Right behind the place I'm working.

Q. I see and you received a phone call from your husband and what did your husband say?

A. He called me and he told me that the boy gets in the hospital and that he don't have any insurance or Blue Cross to pay the hospitalization and the boy needs operation and they won't do it if he's not paying for it and he did not work as I told you and he asked me to send him the money. I asked him how much he needed. And he said \$300. And I [fol. 64] told him I don't have the money and I had not been too good to anybody to ask them for the money. And I just a short time work for my employer and of course (coughing here), but within this time before I got this call I had found a job at McCrory's; I went down to Kentucky ...

Mr. Kusworm: Talk to the judge so he can—he wants to hear you.

By Respondent:

A. . . . and brought my little girl with me back to Dayton. She wasn't living with me at the time, see, my husband called me and told me that he needs the money for this operation.

By Mr. Myers:

Q. Did he tell you what kind of an operation the child needed?

A. No, he did not.

Q. Did he say it was a serious operation?

A. He said it was serious, something about a head injury or something.

Q. So you were put in fear . . .

A. Yes.

Q. . . . at the time, that the child needed an operation and you didn't have any money for the operation. Did you fear that the child might die if he didn't have an operation?

A. Yes, I did because I know if I don't help, my husband don't do it because he doesn't have a job and my in-laws don't have no money to pay for it.

Q. So you knew that if you didn't get the money for this child there would be no way that the child could get an operation and therefore it might die?

A. That's correct.

[fol. 65] Q. And this, at that time, was your sole worry, how to get this money to your child?

The Special Inquiry Officer: Mr. Myers, these questions are tremendously leading. I'd like to hear her story in her own words, rather than yours.

Mr. Myers: All right. Excuse me. I'm getting carried away because I've gone over it so much, your honor.

By Mr. Myers:

Q. All right, let me go back then, Mrs. Woodby. What was your feeling when you received the phone call from your husband? You already stated that you knew your husband didn't have any money and he wasn't working and you already stated that your in-laws didn't have any money. Now, tell the court what your feeling was, this is very important.

A. I was working part time, I was working from nine o'clock to 1:30 in the afternoon and then went back to work at five till 2:30 in the morning, and I had my little girl with me as I told you. Yeah, I did get a phone call from my husband and he told me that the boy's very sick and that he needs operation, but he can't pay for it, he didn't have no insurance and if I'm a mother now, to get it. And I told him, "I don't have that much to give to you." He says, "If you are mother enough, you know how to get it, if you care enough for the child." I told him I'd try.

By Special Inquiry Officer:

Q. Let me interrupt you. You said, if you are mother enough you would know how to get the money?

A. Yes. It was on the next day (unintelligible).

[fol. 66] By Mr. Myers:

Q. What was your feeling—I mean, what did you feel if you didn't get the money, about your child?

A. I would have done anything for this child.

Q. Did you feel that the child might die?

A. Yes, because as I told you I knew he wasn't very well.

Q. All right. Now, that was one day. When did Tom Wally come into the picture?

A. It was right the next day after I talked to my husband on the phone the day before.

Q. All right, and then what happened?

A. Mr. Wally come to the door and knocked on the door and I opened it. I was crying and he said to me then, "I would like to demonstrate a sweeper," and I told him, I said, "Look, in the first place I could not afford a sweeper and in the second place I have other things on my mind to do much more than buying a sweeper." And he told me, "What are you troubled about?" And I guess—I told you I was alone. He was a stranger, but some times you have to talk to somebody, so I told him. He told me, he says, "How fast do you need the money?" I said, "I need it in

a couple of days." He says, "Well," he says, "I'll be right back, then we can talk about it much better." He went outside and come in with a fifth.

By Mr. Kusworm:

Q. A what?

A. A bottle.

Q. Of what?

A. Of whiskey. I was not drinking at this time and it hit me pretty fast.

[fol. 67] By Special Inquiry Officer:

Q. You said it hit you pretty fast?

A. The drink. So he told me how I could make the money, how he's going to help me and he's going to give me \$300 now if I work for him. I did not want to do it, but I was thinking about the child I had nicknamed and the child's in the hospital, so I did it. He says, "I put you on," he says, "three months." But I was not planning on it and I did not do it for a living because I work all my life, but I needed that money at that time. As fast as I get it I quit and I told him so.

By Mr. Myers:

Q. Mrs. Woodby, did you work until you got the \$300, is that right?

A. That's right. Until I paid him the \$300 what he give me.

Q. You paid him back his \$300 and as soon as you paid him back that \$300 did you quit?

A. Yes.

Q. Mrs. Woodby, to continue now, you stated that you paid Tom Wally back the \$300. Now, when you paid him back did you stop all that prostitution?

A. Yes, I did.

Q. And how long ago was that?

A. Four or five years.

Q. Did Mr. Wally approach you after that time to perform other acts for him?

A. Yes, he tried.

Q. And what was your answer to him?

A. No.

Q. Now, since that time, which you said was approximately four or five years ago, you were living at that time on Summit?

[fol. 68] A. Yes.

Q. Now, did you move at that time or approximately at that time?

A. Yes, I went down to Knoxville, Kentucky.

Q. Knoxville, Kentucky, or Tennessee?

A. Tennessee.

Q. All right. And how long did you stay at Knoxville, Tennessee?

A. Three months.

Q. And what were you doing there?

A. I was working in the dining room as a waitress in the Brown Derby.

Q. Is that a restaurant?

A. Yes.

Q. Do they serve liquor there?

A. No, just beer. It's dry.

Q. Now, did you ever engage in any acts of prostitution while living at Knoxville, Tennessee?

A. No, I did not.

Q. When you decided not to stay at Knoxville, Tennessee, any more, how did you come back to Dayton?

A. Mrs. Jackson. I called her to come down and pick me up. She come down and picked me up.

Q. What is her first name?

A. Arlene.

Q. Now, approximately what was the date of this that she came to pick you up?

A. It was the 4th of July.

Q. In what year?

By Mr. Kusworm:

[fol. 69] Q. Well, about how many years ago was it that you were in Knoxville?

A. '57 or '58, I guess.

By Mr. Myers:

Q. All right. Now, Mrs. Jackson brought you back and who did you go to live with at that time?

A. I stayed with her two weeks on Rugby. I live with her and with her daughter and son.

Q. And how long did you live there?

A. I lived other there for two weeks. Then she moved.

Q. Two weeks?

A. Two weeks, yes. Then her and me and her son moved up in an apartment right above the place I'm working.

Q. And from the time that she came to pick you up in Knoxville, Tennessee, how long did you live with Mrs. Jackson?

A. About a year.

Q. About one year?

A. Yes.

Q. And then did she move out or did you move out?

A. She gets married and she moves out.

Q. Did you ever live with her and her husband?

A. Yes, at 9th and Cumberland.

Q. Then you lived with her more than a year?

A. No, just her and me was living together and her son.

Q. All right. Well, after she got married how long did you live with her and her husband?

A. Oh, I would say about two weeks.

[fol. 70] Q. Two weeks? I see, and have you been living alone since that time?

A. Yes.

Q. Where have you been living?

A. 940 Old Orchard.

Q. Since that time, Mrs. Woodby, have you ever engaged in any acts of prostitution?

A. No, sir.

Q. Mrs. Woodby, would you have engaged in any acts of prostitution had you not received the demand from your husband for the \$300?

A. No, I would never have done it.

Q. Had you ever thought about it before?

A. No, never.

Q. What about since?

A. Never.

The Special Inquiry Officer: Do you have any cross-examination?

Mr. Brown: Yes, please.

The Special Inquiry Officer: Very well.

By Mr. Brown:

Q. When you went to Pennsylvania how old was your child?

A. Four months, premature baby.

Q. Four months? And he was a premature baby?

A. Yes.

Q. So you left him and went to Pennsylvania?

[fol. 71] A. I didn't want to leave him. But he give me the money for it because as I told you we get in an argument. I wanted to take the child with me. He won't give him to me.

Q. How old were they (unintelligible)

A. (unintelligible)

Q. I'd like the respondent to answer, please. You said last year?

A. Yes.

Q. Are these children in the custody of someone else?

A. They are staying with my in-laws, my mother and father-in-law. I'm trying to get a custody of them.

Q. Was the custody of these children awarded to your father-in-law and mother-in-law by the court?

A. Temporary.

Q. Temporarily?

A. Yes.

Q. Do you have any action pending in a court anywhere now concerning the custody of these children?

A. Yes.

Q. Have you contributed anything to their support in the last twelve months?

A. I have offered to support them, but they won't let me.

Q. Did you send them money in, say, the last twelve months?

A. Oh, I would send them money for birthday and clothes.

Q. How long have your in-laws had the custody of the children?

A. Since when my husband died, which was two years ago.

Q. Have they been supporting them?

A. Yes. I tried to get a . . . but they won't let me. They [fol. 72] wouldn't let me give the children nothing. They won't even let me have the children on school vacation or Christmas time. That's why I put it in court, because I want the custody of the children.

Q. Where is this action pending in court for the custody of the children?

A. In Harlan, Kentucky.

Q. In Harlan, Kentucky?

A. Yes.

Mr. Brown: That's all.

Mr. Kusworm to the Special Inquiry Officer: I'd just like to ask this question.

By Mr. Kusworm:

Q. Tell the court whether or not you received a letter from your in-laws telling you if you came down to see your children they would have you locked up?

A. Yes, that's true. I still got it. I can prove that.

Q. You what?

A. I still got their letter and I can prove that.

Q. Have you got the letter with you?

A. No, I don't.

Q. All right. Now, one more question. Isn't it a fact that you have hired a lawyer in Dayton to try to get your children for you and that proceedings are now pending to get them?

A. That's true.

Q. What's the name of the lawyer?

A. James E. Bruck.

[fol. 73] By Mr. Myers:

Q. He's an attorney in Harlan, Kentucky?

A. Yes.

Q. And that's where the action is pending?

A. Yes.

Mr. Kusworm: That's all.

ARLENE JACKSON introduced as a witness for the respondent:

The Special Inquiry Officer:

Q. Will the witness please rise and raise her right hand? Do you solemnly swear that all the testimony that you shall give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

A. I do.

Q. You may be seated. Will you tell us your name, please?

A. Arlene Jackson.

Q. And where do you live?

A. 4053 Bayonne.

Mr. Kusworm: Bayonne Avenue, Dayton, Ohio. Talk a little louder.

The Special Inquiry Officer:

Q. How old are you?

A. Forty-two.

The Special Inquiry Officer: You may examine the witness.

By Mr. Myers:

Q. Mrs. Jackson, Mrs. Woodby testified that she called [fol. 74] you from Knoxville, Tennessee, to come down and pick her up. Now, will you tell us what transpired from that point on?

Mr. Kusworm: Talk loud and talk to the court.

The Witness: She called me and told me that she wanted to get back to Dayton and she didn't have any money and so I had a friend of mine take the car and we went down to get her. We brought her back here and she stayed with me.

By Mr. Myers:

Q. Where was that?

A. On Rugby Road, 1936 Rugby Road.

Q. Now, how long did you live on Rugby Road?

A. That was July the 4th and we moved from there in September.

Q. To where?

A. We lived at 1500 West Riverview.

Q. Is that the apartment above Neil's?

A. Right.

Q. How long did you live together there?

A. We lived there until between New Year's—Christmas and New Year's, that would be 1958.

Q. All in all, how long did Mrs. Woodby live with you in the different . . . starting from July the 4th?

A. Well, she lived with me from then up to '61, I imagine about February.

Q. That's a period of about two and a half years?

A. That's right.

Q. During this period of time, were the two of you close? [fol. 75] A. Yes, very close.

Q. Did she come home immediately after work?

A. That's right. Yes, she did.

Q. Were you with her almost all of the time other than when you were working?

A. Most of the time.

Q. Did you ever see any men in the apartment?

A. No. Occasionally a date. Very, very seldom. There was no men in the daytime at all and when there was a date it was with me.

Q. When she went on a date you went with her?

By Special Inquiry Officer:

Q. What's your answer?

Mr. Myers: Either yes or no.

Mr. Kusworm: Talk so the judge can hear you. Talk loud. Talk so the microphone can pick you up.

The Witness: Well, what was the question?

By Mr. Myers:

Q. The question was, when Mrs. Woodby went on a date did you also go along?

A. Yes, I did.

Q. Would you have noticed if Mrs. Woodby had gone out to see men?

A. I would have known.

Q. Did she?

A. No.

[fol. 76] Q. Are you sure, as long as you lived with her that Mrs. Woodby was not entertaining any men?

A. No, she wasn't. Not to my knowledge.

Q. What is Mrs. Woodby's reputation?

A. I think it's very good.

Q. What do people think of her?

A. Most of them think she's very good as far as I know.

Q. Do you know the same general group of people that she knows?

A. Yes.

Q. And she is not considered a prostitute?

A. No.

Q. Have you ever heard anybody refer to her as that?

A. Not that I can recall.

Q. Would you have permitted Mrs. Woodby to live with you if she had been anything other than a decent person?

A. No.

By Mr. Brown:

Q. (unintelligible)

A. No, I'm married.

Q. (unintelligible)

A. Not at the present time, no.

Q. Do you have any children?

A. Not by this marriage, but I have children.

Q. (unintelligible)

A. Yes, my son.

Q. How old was he?

[fol. 77] A. He was seventeen at the time.

Q. What kind of work do you do now?

A. Well, I do bookkeeping when I am working. I am not working at the present time.

Q. And have you ever been arrested?

A. No.

Mr. Brown: That's all.

The Special Inquiry Officer: You may be excused, Mrs. Jackson.

Witness excused.

JUANITA LEWIS introduced as a witness for the respondent:

By Special Inquiry Officer:

Q. Will the witness stand and raise her right hand, please? Do you solemnly swear that all the testimony that you shall give will be the truth, the whole truth, and nothing but the truth, so help you God?

A. I do.

Q. You may be seated. Will you repeat your name, please?

A. Juanita Lewis.

Q. And how old are you?

A. I'm fifty-one.

Q. And where do you live?

A. At 4373 Macon Avenue, Dayton.

The Special Inquiry Officer: You may proceed.

By Mr. Myers:

[fol. 78] Q. Mrs. Lewis, how long have you known Mrs. Woodby?

A. I think for six years.

Q. Now, do you see Mrs. Woodby often?

A. Yes, I see her quite often.

Q. Have you visited in her home?

A. Yes, I have.

Q. Have you ever seen men in her home?

A. Never.

Q. What is her reputation?

A. Very good.

Q. What type of a housekeeper is she?

A. A very good housekeeper.

Q. What kind of a person is she?

A. Well, she is a very nice person as far as I know about her.

Q. Do you know the same people that she knows?

A. Well, I know Mrs. Jackson that she knows. When they lived together I would visit them frequently and on the average of once a week and they never knew when I was coming, and she was always as nice as she could be at any time that I have ever been there, that I was there, and I used to stay all night sometimes.

Q. And Mrs. Woodby was always there at night?

A. Sometimes she wouldn't be in from work yet, but then she'd always come in straight home from work and then she never went out.

Q. She used to work in the evenings?

A. Yes.

Q. And, as far as you know . . . (unintelligible)

[fol. 79] A. Good.

By Mr. Brown:

Q. (unintelligible)
A. Yes; I have.
Q. (unintelligible)
A. Well, when Arlene and her—Mrs. Jackson and her—lived together, I would visit there frequently and then where she works I go in and eat a lot.

Q. (unintelligible)
A. Yes.
Q. How often would you see her?
A. On the average of once a week I would say.
Q. In the last five years?
A. Well, when they lived together, when Mrs. Jackson and her lived together, I did.
Q. (unintelligible)
A. No.

Mr. Brown: That's all.
The Special Inquiry Officer: You may be excused.
Witness excused.
The Special Inquiry Officer: The only application here is for termination of the proceedings?

Mr. Kusworm: Yes.
[fol. 80] The Special Inquiry Officer: If she should be found deportable does she wish to apply for all she would be eligible for?

Mr. Kusworm: No, termination is the only application.

By the Special Inquiry Officer:

Q. Mrs. Woodby, don't judge by what I am about to ask you that I have decided this case. Every alien in deportation proceedings may name one country to which she would prefer to be sent if she has to be deported. What country would you name?

A. Germany.
Q. And do you have any reason to fear that you would be subject to physical persecution if you were sent to Germany?

A. I don't know.

Q. Well, have you any reason to expect you would have any trouble in Germany?

A. No.

The Special Inquiry Officer; Counsel, if the decision is adverse, you have the right of appeal to the Board of Immigration Appeals.

Mr. Kusworm: We are going to take every step that is possible under the law to keep this woman in this country.

The Special Inquiry Officer: And such appeal must be taken within ten days from the date of the mailing of the decision.

[fol. 81] Mr. Kusworm: Suppose we don't get it? Now, if you sent it by registered mail there is no question about it, but you may not get it. The United States mail is not infallible, you know.

The Special Inquiry Officer: Well, I'm sorry. Our regulations so prescribe, ten days from the mailing, and if the decision is favorable, the district director has the same right of appeal. The hearing is closed subject to the stipulation that counsel is permitted to attempt to supply affidavits . . .

Mr. Kusworm: Of the employer.

The Special Inquiry Officer: . . . to be referred to the examining officer and there is no objection on the record.

Hearing closed.

[fol. 82]

UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

File: A10 331 472—Cleveland, Ohio

IN DEPORTATION PROCEEDINGS

In the Matter of

ELIZABETH ROSALIA WOODBY, Respondent.

Charge:

I & N Act—Section 241(a)(12), prostitution after entry
[8 U.S.C. 1251(a)(12)]

Application: Termination of proceedings

In Behalf of Respondent:

Sidney K. Kusworm, Sr., Esquire
Jacob A. Myers, Esquire
403 Keith Building
Dayton, Ohio

In Behalf of Service:

W. Nelson Brown
Examining Officer
Cincinnati, Ohio

DECISION OF THE SPECIAL INQUIRY OFFICER—
October 30, 1962

Respondent is a female, 30 years old, a widow and the mother of two United States citizen children who at the time of the hearing were in the legal custody of her father- and mother-in-law. She is an alien, a native of Hungary and a citizen of Germany, whose only entry into the United States was on or about February 7, 1956, at New York, New York.

The order to show cause contains the allegation, "You have engaged in prostitution after entry," and charges her with [fol. 83] deportability pursuant to section 241(a)(12) of the Immigration and Nationality Act [8 U.S.C. 1251(a)(12)],

in that by reason of conduct, behavior or activity at any time after entry she became a member of any of the classes specified in section 212(a)(12), to wit, aliens who have engaged in prostitution.

Respondent admits she engaged in prostitution after entry, but claims it was in circumstances of economic and emotional duress occasioned by news that her infant son needed hospitalization which would cost \$300, a sum which a procurer, a stranger to her, agreed to advance to her to be repaid from money she would receive from men he would send to her.

The respondent came to Germany from Hungary in 1945 as a displaced person. On January 8, 1955, she married a United States citizen serving in the United States armed forces in Germany. Their first child, a girl, was born in Germany. After respondent's arrival in the United States in February of 1956 she and her husband and daughter lived with her husband's parents in Harlan, Kentucky, for a few months, then came to Dayton, Ohio, where her son was born on August 13, 1956. As prematurely born, the infant remained in the hospital for three or four months. Respondent testifies that when the baby was released from the hospital, she and her husband quarreled and her husband virtually forced her to visit a friend in Pennsylvania. She returned after one day to find that her husband had taken the baby and left for Harlan, where her daughter already was. This would have been in late 1956.

About four months later, according to respondent, she had a telephone call from her husband telling her that the baby [fol. 84] had to be hospitalized and that \$300 was needed at once and that she was the only one in the family who could raise that sum. The next evening, so her story goes, she was alone in her apartment, crying, when a vacuum cleaner salesman called. She told him of her troubles and that since she had just taken a job as a waitress she knew no one from whom she could borrow the money. The salesman said he

might be able to help her. He left the apartment and soon returned with a bottle of whiskey and another man. After a few drinks around the salesman offered to advance the money, to be repaid, as aforesaid, from what she received from men he would send to her. As a waitress she was free afternoons to accept dates. Respondent agreeing, the salesman and the man with him then took some photographs of respondent in the nude, she had the \$300 the next day and received her first customers. Respondent testifies she continued receiving men in prostitution for about eight weeks until she was able to repay the salesman. She then wanted to quit but the salesman threatened to report her to the police or the immigration authorities, and she did continue for another two weeks after these threats, and then she met Mr. Amicon and quit prostitution (H.R. 13, Ex. 2, p. 16).

The only precedent decision of the Board of Immigration Appeals involving prostitution committed under duress is *Matter of M-*, 7, I. & N. Dec. 251 (1956). The alien there was a girl of 17, an orphan, whom two women transported from one Mexican city to another on promises of employment as a waitress at higher wages. Instead she was forced into a house of prostitution and told that she would have to remain until her transportation costs of a thousand pesos [fol. 85] were repaid. On several occasions she attempted unsuccessfully to escape. The Board stated as follows: "As a matter of law she is not excludable as a prostitute under section 212(a)(12) of the Immigration and Nationality Act of 1952, because those to whom respondent was indebted reduced her to such a state of mind that she was actually prevented from exercising her free will through the use of wrongful, oppressive threats or unlawful means [footnote omitted]."

No threats or unlawful means accompanied the salesman's proposition to Mrs. Woodby. If her story is believed, anxiety for her child made the proposition acceptable and she voluntarily accepted it, though in less pressing cir-

cumstances she would have rejected it. If it is argued that the salesman used liquor to influence respondent's initial decision, there was opportunity the following day to repent and reject the proposal.

If as a matter of law the story she tells should make the defense of duress available, a careful study of the record discredits that story. The chronology of events is decisive. The first clear date is August 13, 1956, when her son was born. About four months later the son was released from the hospital and her husband left her, taking the infant with him. This would have been about December, 1956. The son's later need for hospitalization came when he was six to eight months old, and when respondent was living in Summit Court, Dayton (Ex. 2, p. 10). At the latest, this would have been April, 1957, when respondent admittedly began practicing prostitution. The date is further fixed by respondent's testimony that after her husband left her she [fol. 86] found a job at McCrory's, which she held for three months before commencing at Neil's Restaurant. It was shortly after she started work at Neil's that she received the telephone call about her son (H.R. 29).

As before indicated, it was when she met Mr. Amicon that she quit prostitution. At the hearing, Mr. Amicon testified he met respondent around October, 1957 (H.R. 18). If Mr. Amicon correctly fixed the month and year, respondent had by then been prostituting since April, or about six months, rather than the approximate two months she admits to in which she raised the \$300 to repay the vacuum cleaner salesman. From the record, however, it appears that the year in which she met Amicon was 1958 rather than 1957. Amicon testified that when he first met respondent she was living at 1500 Riverview in an apartment above Neil's (Ex. 3, p. 3). From respondent's testimony and that of her witness, Mrs. Jackson, it develops that respondent did not move to the apartment at 1500 Riverview above Neil's until late 1958. When respondent left Summit Court she went to Knoxville, Tennessee, where she stayed three months

(H.R. 33, 34). She had moved to Summit Court about two months after her husband left her, or about February of 1957 and resided there about a year or longer, or until February, 1958, or later (Ex. 2, pp. 3, 4). She left Summit Court when its management learned, according to respondent, that one of the vacuum cleaner salesman's girls, who was sharing respondent's residence there, was practicing prostitution, and told her to leave (Ex. 2, p. 21). Respondent returned from Knoxville on July 4, 1958, when her friend Mrs. Jackson came from Dayton to get her. She then shared an apartment on Rugby Road until September, 1958, when they moved to 1500 West Riverview, the apartment over Neil's Restaurant (H.R. 40). This was the apartment to which she took Mr. Amicon when she was introduced to him as a prostitute. Respondent and Mrs. Jackson lived [fol. 87] together until about February, 1961, or a period of about two and a half years, according to the testimony of respondent's witness, Mrs. Jackson (H.R. 40). These dates, supplied variously by respondent, Mrs. Jackson and Mr. Amicon and mutually corroborated in one detail or another, demonstrate that respondent commenced practicing prostitution about February of 1957, whatever the reason or provocation may have been, and continued until late 1958, long after she had repaid the salesman's loan, if her story about the loan be believed. Parenthetically, it is a hard story to believe.

I find the fourth allegation of the order to show cause sustained by the respondent's testimony, that of her witness Mrs. Jackson, and that of the man who testified he hoped to marry her. There are other indications in the record that respondent may have been engaged in prostitution before the time she admits she did and after the time she claims to have stopped. They are corroborative, but need not be detailed.

The respondent, through counsel, has made application only for termination of proceedings. On the record of this proceeding and the charged ground of deportation, the only

eligibility for relief from deportation would be an application for adjustment of status under section 245 of the Act [8 U.S.C. 1255] and waiver of inadmissibility under section 212(g) [8 U.S.C. 1182(g)]. Since her citizen children are now in the legal custody of respondent father-and mother-in-law, there is no basis for considering that her deportation would result in extreme hardship to her children. The custody of the grand-parents was at the time of hearing of two years' duration. At the present writing [fol. 88] there is no indication that respondent has received the custody of the children, although at the hearing she testified she had engaged a lawyer for proceedings to regain their custody.

Respondent has designated Germany as the country of her deportation. Should Germany not accept her, the special inquiry officer specifies Hungary as the country of deportation, that being the country of her birth.

Order: It Is Ordered that the respondent be deported from the United States to Germany on the charge contained in the Order to Show Cause.

It Is Further Ordered that if the aforesigned country advises the Attorney General that it is unwilling to accept the respondent into its territory or fails to advise the Attorney General within three months following original inquiry whether it will or will not accept the respondent into its territory, the respondent shall be deported to Hungary.

Richard P. Lott, Special Inquiry Officer.

[fol. 89]

NOTICE OF APPEAL TO THE BOARD OF IMMIGRATION APPEALS
DEPARTMENT OF JUSTICE, WASHINGTON, D.C.
—Filed November 13, 1962

Submit in Triplicate to:

Immigration and Naturalization Service, 600 Standard Building, Cleveland 13, Ohio.

File No.: A10 331 472 SIU

Date: November 9, 1962

In the Matter of

of

ELIZABETH ROSALIA WOODBY

I hereby appeal from the decision in the above entitled case dated October 30, 1962.

If this is a Deportation Proceeding, you must furnish the information requested on the reverse of this form or your appeal may be rejected.

I am not filing herewith written brief or other statement for consideration by the Board of Immigration Appeals. (A supporting brief is not required, but if filed is to be submitted in triplicate to the same office where this notice of appeal is filed.), but one will be filed within three weeks.

I do desire oral argument before the Board of Immigration Appeals in Washington, D. C.

Note: Oral argument in any one case should not extend beyond fifteen (15) minutes, unless arrangements are made in advance of the hearing for additional time.

An appellant will not be released from detention or permitted to enter the United States to present oral argument to the Board but may make arrangements to have someone represent him before the Board. Unless such arrangements are made at the time the

appeal is taken, the Board of Immigration Appeals will not calendar the case for argument.

Sidney K. Kusworm, 402 Keith Bldg., Dayton 2, Ohio.

Fee.—Be sure to enclose the required fee, specified in attached letter. Attach money order or check. Do Not send cash. Remittances should be made payable to the "Immigration and Naturalization Service, Department of Justice." If this form is filed in Guam, make remittance payable to "Treasurer, Guam"; if filed in the Virgin Islands, make remittance payable to "Commissioner of Finance of the Virgin Islands." The fee is required for filing the appeal and is not returnable regardless of the action taken thereon.

[fol. 90]

This Side Must be Executed in All Appeals in Deportation Proceedings

1. Are you contesting deportability?	<u> x </u>	_____
2. Are you appealing from denial of voluntary departure?	Yes	No
	<u> x </u>	_____
3. Are you appealing from denial of an application for creation of the status of an alien lawfully admitted for permanent residence under section 244(a) □, 245 □, or 249 □ of the Immigration and Nationality Act?	Yes	No
	<u> x </u>	_____
4. Are you appealing from denial of an application for temporary withholding of deportation based upon a claim of physical persecution under section 243(h)?	Yes	No
	<u> x </u>	_____

If the answer is "Yes" to any of the above questions, or if you have any other grounds for appeal, state briefly the reasons supporting your contentions.

We claim that the defense of duress is applicable in this case. The findings of fact and law of the hearing officer are against the weight of the evidence and contrary to law.

Elizabeth Rosalia Woodby did not get a fair hearing on this matter in that her attorneys were to receive a copy of the transcript and then have time to file a brief in this matter prior to the decision of the hearing officer.

They never received a copy of the transcript and therefore were not given the opportunity to file briefs as they were promised by the hearing officer and upon which promise they relied to the detriment of Elizabeth Rosalia Woodby. Elizabeth Rosalia Woodby has a valid defense, that defense being duress, which would have been developed fully in her briefs, had she been given the opportunity to file them.

[fol. 91]

UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

File A10 331 472

Deportation

In the Matter of

ELISABETH ROSALIA WOODBY, Respondent.

BRIEF OF RESPONDENT

Kusworm and Kusworm, Attorneys at Law, By Sidney G. Kusworm and Jacob A. Myers, Attorneys for Respondent.

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[fol. 93] Statement of Facts

The Respondent is a 30 year old female, who married an American soldier in Germany while he was stationed there. She gave birth to one child in Germany, and remained there for more than a year after her husband returned to the United States. She arrived in the United States in February of 1956, and she, her husband and their daughter lived with her husband's parents in Harlan, Kentucky. A few months later they moved to Dayton, Ohio where her son was born prematurely on August 13, 1956 (H. R. 25). At that time the Respondent, her husband and daughter lived at 528 Notre Dame, Dayton, Ohio, and lived at that address for approximately four months after the birth of the child (H. R. 26), this would have been approximately January 1, 1957. At that time the Respondent's husband virtually forced her to go to Pennsylvania to visit a friend. She returned the next day to find that her husband and the children had gone to Kentucky (H. R. 27). The Respondent went to work at McCrory's 5 & 10¢ store, and worked there approximately three months (H. R. 29). This would place the time at approximately April 1, 1957. The Respondent then went to work at Neil's Restaurant, and at the same time had moved her residence to Summit Court (H. R. 29). The Respondent received a telephone call from her husband, who was in Kentucky, stating that he needed \$300 for an operation for the baby. The baby was supposed to be in the hospital and the husband did not have any insurance or Blue Cross to pay the hospital, and they were not going to perform the operation unless they were paid the \$300 (H. R. 29), and she believed that the

[fol. 94] child would die if the operation were not performed.

The next day a vacuum cleaner salesman, by the name of Tom Walley, came to the door to sell the Respondent a vacuum cleaner, and she told him the story. He told her that he could help her get the money, since she knew no one else from whom she could borrow the money. He left the apartment and returned with a bottle of whiskey and another man. He took some pictures of her, and it appears as if men started coming to the apartment the next day (H. R. 7). These arrangements continued for approximately two months, until the Respondent had repaid the \$300 which she needed for the operation for her son (H. R. 8). When the Respondent attempted to cease the arrangement which she had, she was threatened by Walley with being reported to the immigration authorities and the police (H. R. 14 & 15). Even facing these threats of blackmail, the Respondent terminated this relationship with Mr. Walley, and moved to Knoxville, Tennessee to get away from Walley and remained there until July 4, 1957 (H. R. 34). A Mrs. Jackson drove to Knoxville to pick up the Respondent and brought her back to Dayton, Ohio, where the Respondent lived with Mrs. Jackson on Rugby Road. They lived there from July 4th until sometime in September, when they moved to 1500 W. Riverview, above Neil's Restaurant, where the Respondent was working (H. R. 40). Mr. Amicon met the Respondent at Neil's Restaurant in October 1957 where she was working (H. R. 18). Mr. Amicon was introduced at the restaurant to the Respondent as an alleged prostitute, but he found that she was not, and that she had ceased all such actions after she had repaid the money which she needed for her son's [fol. 95] operation. Amicon testified that he was willing to marry the Respondent (H. R. 20). Certainly, he would not propose marriage if he did not believe her story. (The Respondent has been a widow since July 14, 1957, when her husband was killed in an automobile accident).

The Special Inquiry Officers finding of fact is not supported by the record, in this case. On Page 5 of his decision, it is stated that Mr. Amicon stated that he met the Respondent in October of 1957. As a result of this meeting, the Hearing Officer erroneously found that the Respondent had been practicing prostitution since April or for approximately six months. In the record of the proceeding it is stated that the Respondent went to Knoxville, Tennessee for several months and remained there until July 4, 1957, and that she lived with a Mrs. Jackson, first on Rugby Road and then moved to above Neil's Restaurant in September of 1957. The Respondent met Mr. Amicon about one month later, as aforesaid. She stated in the record that she ceased practicing prostitution prior to her leaving for Knoxville, Tennessee. The entire time sequence is erroneously stated in the decision. The correct time sequence is as follows:

(1) The Respondent began the practice of prostitution approximately April 1, 1957 and engaged therein for approximately two months after which she quit being a prostitute.

(2) The Respondent traveled to Knoxville and returned therefrom no July 4, 1957.

[fol. 96] (3) The Respondent lived with Mrs. Jackson, first on Rugby Road and then at 1500 W. Riverview, above Neil's Restaurant from July 4, 1957, until October of 1957 when she met Mr. Amicon.

If the Hearing Officer had followed the time sequence in this matter correctly, as above set forth, then the factual basis for his decision is negated by the facts as they actually existed.

The above are the pertinent facts on which we base the law.

Law

[fol. 97] The Defense in this case is one of duress—if any acts were committed or performed by the Respondent,

she did so under duress and is therefore not legally responsible under the law.

The Respondent began practicing prostitution in approximately April of 1957, when she was informed by her husband that her son had a head injury, was in the hospital and needed an operation, but that he was not going to have this operation if the sum of \$300.00 was not first paid to the hospital and/or the Doctor. Respondent believed that if the operation were not performed, the child would die. The boy had been a premature baby and had been in the hospital approximately four months after his birth, and this phone call from the Respondent's husband came approximately four months after the child's release from the hospital. The father of the boy had no job, and, of course, was making no effort to procure the money which was needed. The father's character is portrayed quite vividly in the one incident where, after an argument, he placed the Respondent on a bus with \$10.00 to go to Pennsylvania to visit a friend, and then took the children to his parents house in Harlan, Kentucky.

When the Respondent received the phone call concerning the need for her son's operation, she was put in fear for the health and life of her son. She knew that the child would not get the operation if she did not provide the money for it. Not only was her husband not working, but her in-laws had no money either. The Respondent then entered into the practice of prostitution to raise the \$300.00 [fol. 98] which was demanded by her husband for the child's operation, and she ceased all acts of prostitution after she had this sum of money repaid to the lender under threat of blackmail.

The question involved in this case is therefore, were the acts of prostitution which were performed by the Respondent, performed under duress or not? We contend that they were and offer the following cases to support our contention.

There are many cases which give the definition of duress, but the first one which we will discuss is one which oc-

curred under similar circumstances, that being duress being used as defense for an order of deportation for the reason that the immigrant had allegedly engaged in prostitution. In the Matter of M—, 7 IN 251 (LD. 804, 1956), an order of deportation was ordered by special inquiry officer finding that the immigrant had engaged in prostitution in violation of Section 241 (a) (1) of the Act of 1952.

While working at Magdalena, Sonora, Mexico as a waitress, she was induced by two women to go to Naco, Sonora, Mexico, on the promises that she would be given employment there as a waitress for higher wages than she was then receiving. She had not reached the age of eighteen years, but nevertheless was taken to a house of prostitution and told that she was to work as a prostitute and not as a waitress. She testified that she protested but was told that she owed them one thousand pesos for the expenses in bringing her from Magdalena to Naco, Sonora, Mexico, [fol. 99] and that she would have to repay this money before she could be released. She further testified that she attempted to escape from this house of prostitution on several occasions but was always located and forced to return to a house of prostitution in order to pay the money she owed. She finally met the man who is now her husband and claims that she has never since had illicit relations with any man. Respondent presented several letters attesting to her good moral character and her conducts since she has been married to her present husband. The special inquiry officer stated for the record that he believed that the respondent has testified truthfully and in all sincerity with regard to her experiences as a prostitute.

We have certainly considered all the evidence of record. The respondent has testified that she engaged in the practice of prostitution for a period of less than a year. There is always a showing that the respondent was indebted to the operator of the bawdy house to the extent of one thousand pesos and that she did not earn enough to pay for her meals, much less pay the debt. There was also a showing that at the first opportunity respondent, upon the assur-

ance of security through marriage fled those who had led her astray.

We are of the same opinion as the special inquiry officer that respondent has testified truthfully. *As a matter of law she is not excludable as a prostitute under section 212 (a) (12) of the Immigration and Nationality Act of 1952, because those to whom respondent was indebted reduced her to such a state of mind that she was actually prevented [fol. 100] from exercising her free will through the use of wrongful, apprissive threats or unlawful means.* (see Weisert vs. Bramman, 358 MO 636, 216 SW 2nd 430 (1948); Walk-A-Show vs. Stanton, 182 MC 405, 35 A 2nd 121 (1943); Southern Railway Company vs. Stewart, 115 F 2nd 317 (CCA 8, 1940). (emphasis added)

We had had occasion in the past to consider facts similar to those presented to the instant case and held that prostitution committed under duress would not support a charge laid under Section 241 (a) (1) of the Immigration and Nationality Act. See matter of R-H, A-1050 7646, BIA, December 28th, 1955, unreported. Accordingly we find the charges in the warrant of arrest not sustained. The proceedings will determinate it."

The respondent stated that she had been forced to practice prostitution and that her fall from grace was brought about by fraud, deceit, duress, and coercion practiced upon her and that she was unable to escape from this immoral life."

In the case *Weisert vs. Bramman*, 358 MO 636, 216 SW 2nd 430, (1948), duress was alleged by the Plaintiff when she executed a certain agreement with the Defendants. The Court stated "the modern rule of duress as established by the above cases is that "duress" is to be tested, not by the nature of the threats, but rather by the state of mind induced thereby in the victim"; and that "the ultimate fact in issue is whether the alleged injured party was bereft of the free exercise of his willpower; and of which, the [fol. 101] means used to produce such state of mind, the

age, sex, capacity, situation, and relation of the parties, are all evidentiary."

Coleman vs. Crescent Insulated Wire and Cable Company, 350 MO 781, 168 SW 2nd, 1060, 1066. However, it is also the general rule that a claim of duress cannot be sustained where there is full knowledge of the facts of the situation and ample time and opportunity for full and free investigation, deliberation and reflection"

In the case of *Walk-A-Show, Inc. vs. Stanton*, 182 MD 405, 35 A 2nd 121 (1943), the Court stated when confronted with the statement that a payment had been made to the city of Baltimore under duress, "duress is a condition of mind produced by improper external pressure or influence that practically destroys the free agency of the party against whom it is brought."

The Court in the *Southern Railway Company vs. Stewart*, 115 F 2nd 317 (1940), at Page 321 stated: "There is no legal standard of resistance with which the victim must comply at the peril of being remedyless for a wrong done, and no general rule as to the sufficiency of facts to produce duress. The question in each case is whether the person so acted upon, by threats of the person claiming the benefit of the contract, was bereft of the quality of mind essential to the making of a contract, and whether the contract was thereby obtained. In other words, duress is not to be tested by the character of the threats, but rather by the effect produced thereby on the mind of the victim. The means used, the age, sex, state of health and mental characteristics of the victim are all evidentiary, but [fol. 102] the ultimate fact and issue is whether such person was bereft of the free exercise of his willpower.

The trend of modern authority is to the effect that a contract obtained by so oppressing a person by threats as to deprive him of his free exercise of his will may be voided on the ground of duress. What constitutes duress is a matter of law, whether duress exist in a particular transaction is usually a matter of fact."

The case of *Cooper, et al., vs. Cooper*, 69 SO, 2nd 881, (1954), was decided by the Supreme Court of Florida where an action was brought by a former wife against her former husband to set aside a certain deed which the wife had allegedly signed under duress. The Court stated at Page 883, while giving the definition of duress, "As was said in the last cited case "*Duress is a condition of the mind produced by an improper external pressure or influence that practically destroys the free agency of a party and causes him to do and act or make a contract not of his own volition.*" (Emphasis added)

In the case of *Newsom vs. Medis*, 205 Okl. 574, 239 P 2nd 784, (1951) the Plaintiff brought an action against the Defendant for actual damages and punitive damages for duress in the signing of a contract. The Court stated at Page 786, "*Duress exists when one, by an unlawful act of another, is induced to make a contract or perform some act under circumstances which deprive him of the exercise of his free will.*" (Emphasis added)

"In that case we also said, "To deprive one of his will and understanding by reason of threats or other unlawful [fol. 103] means, so that a note thus obtained is not his free and voluntary act, constitutes duress."

In the case of *Cappy's Inc. vs. Dorgan, et al.*, 313 Mass. 170, 46 NE 2 538, the Court stated at Page 540 when considering whether there was duress or not: "It is settled that a person who's will and judgment are overcome by threats, fear or some other influence, and who is thereby compelled to execute a contract that he would not have made in the free exercise of his will and independent judgment, may avoid the contract on the ground of duress."

The Federal Courts have in other cases, involving citizenship and deportation, set forth certain standards and definitions for duress.

In the case of *Insogna vs. Dulles*, 116 FS 473, (1953), the Plaintiff brought an action under the Nationality Act for a declaratory judgment to establish that she was a citizen

of the United States and that there had been no expatriation or abandonment of citizenship by her because of the fact that she had accepted governmental employment in Italy. Plaintiff's testimony was that just prior to World War II she had worked as a domestic to support her Mother and sister; that with the advent of the War, the economy of the small village was so upset that she was unable to find work and that when she sought relief from the Mayor of the village she was told that the village had no money but that she was offered a job working for the government.

The Court stated at Page 475: "There is no legal requirement that this testimony be corroborated by documentary or other proof. *Pandolfo vs. Atcheson*, 2 Cir, 1953, 202 F 2nd 38. Thus, in the absence of any showing to the contrary, the Court is of the opinion that the circumstances are such as to justify a finding that the Plaintiff took the job in order to subsist. Self preservation has long been recognized as the first law of nature. In addition, common knowledge of the economic conditions and fears prevailing in a country at war lends credence to the Plaintiff's testimony. The circumstances of the acceptance of employment by Plaintiff justifiably form a basis for the finding of fact, now made by the Court, that same was involuntary and based on duress. "The means of exercising duress is not limited to guns, clubs, or physical threats." *Nakashima vs. Atcheson* DC Cal. 1951, 98 F sup 11, 13. *CF. Mendelsohn vs. Dulles*, *supra*; *Ryckman vs. Atcheson*, DC Texas 1952, 106 F Sup. 739, *Schioler vs. United States*, DC 111. 1948, 75 F Sup 353."

In the case of *Schioler vs. United States*, 75 FS 353, (1948), the Plaintiff brought this action against the United States for declaratory judgment declaring that she was a citizen of the United States and that she never lost her citizenship by reason of she and her husband's petition for Danish citizenship and by reason of her having traveled to the United States on a Danish passport. The Plaintiff, her

husband, and their two children, were in Denmark when the Second World War broke out and they were apprehensive for their own safety and that of their children. They [fol. 105] were advised by Danish officials to ask for Danish citizenship because they felt it would be a protection to them and their children.

The Court states at Page 355; "The Court believes that American citizenship is a priceless heritage involving not only privileges but duties and responsibilities, and that among these duties and responsibilities are primarily loyalty and allegiance to the United States. *However, in considering this case, the court also recognized that self preservation is nature's first law and that it is quite natural for mothers and fathers to seek in every way to preserve the lives of their children when their safety is threatened.* (Emphasis added) When an American citizen finds himself and his family as Paul Schioler did, in the theater of war, their safety threatened, facing the gravious of dangers, even possible death or interment, and in this extremity, on the advice of officials of a foreign state where he happens to be, makes application for foreign citizenship in an effort to preserve the lives and safety of his family, his wife joining in the application, I am of the opinion that under such circumstances the joinder of the wife is not such a voluntary renunciation or abandonment of her nationality as to forfeit her American born citizenship.

I therefore conclude, after a careful consideration of all of the facts in this case, that Petitioner, by joinder in her husband's application did not loose her native born United States citizenship, and that she remains a citizen of the United States and entitled to all the rights and privileges of such United States citizenship and I so hold."

[fol. 106] In the case of *Nakashima vs. Atcheson*, 98 FS 11, (1951), the Plaintiff brought this action against the Secretary of State for declaratory judgment declaring her to be a national of the United States. The Plaintiff in the year 1946 voted in a Japanese political election, which was

the first in which women were permitted to vote. The occupation authorities were bringing intense pressure on the Japanese people in an effort to induce them to participate in the democratic process and to exercise their right of suffrage. The testimony of the Plaintiff disclosed that she had the fixed purpose of returning to this country at the first opportunity and was fearful of any interference with her plans and thought that if she did not vote in the election she would displease the occupational authorities and might encounter some difficulty in returning to the United States as a result of not voting.

The Court stated at Page 13: "*The means of exercising duress is not limited to guns, clubs, or physical threats. The fear of loss of access to ones country, like the fear of loss of a loved one, can be more coercive than the fear of physical violence. The Plaintiff's act of voting was not of her own choice, it was impelled by the influence of those who stood in position of authority and was not a voluntary act.*" In view of this finding the court held that the Plaintiff did not lose her American citizenship by voting in the election. (Emphasis added)

In the case of *Mendelsohn vs. Dulles*, 207 F 2nd 37, (1953) Plaintiff further brought this action for declaratory judgment to be declared a national of the United States on the ground that he had voluntarily resided in a foreign country for more than five years due to financial inability [fol. 107] to buy passage and because of his wife's illness. The Court stated at Page 39: "The Secretary thus presses upon us the adoption of a Spartan standard by which to determine whether the appellant acted voluntarily. He says that Mendelsohn could have embarked for America, turning away from the sick bed and leaving his wife to the care of others while he traveled thousands of miles to retain his nationality. It was indeed physically impossible, and the appellant could have done it if he could have overcome those natural impulses which imperatively require a husband's continued presence with his wife who lies seri-

ously ill. The Secretary's argument disregards the duress of devotion. Mendelsohn acted, it seems to us, under the corrosion of marital affection, which was just as compelling as physical restraint."

In the case of *Ryckman vs. Atcheson*, 106 FS 739, (1952) the Plaintiff brought this action to obtain a declaratory judgment that she was a national of the United States. The Plaintiff had returned to Canada for periods of time in order that she might take care of her mother who was then 78 years of age and in poor health. The Court stated, when attempting to determine if the Plaintiff stay in Canada was voluntary or not, at Page 741, quoting the case of *Nakashima vs. Atcheson*, 98 FS 11, (1951) a voluntary act is defined as "an act proceeding from who's own choice or full consent unimpelled by another influence." The Court further stated at page 741; that the fear of the loss of a loved one who was not physically able to care for [fol. 108] herself and who had no one in the world to care for or stay with her, was in effect duress.

In the case of *Rex vs. Steane* (1947) K B 997, (1947) 1 ALL ENG 813-cca, it was held that the conviction of the Defendant for doing acts likely to assist the enemy and with intent to do so, namely, radio broadcasting in Germany, during the War, could not stand, not only because the criminal intent had not been proved, but also because the trial court in summing up had failed to remind the jury of the various threats made by the Germans that Defendant's wife and children would be put in a concentration camp if he did not obey, and that there were methods of making people do things as well as beatings to which Defendant swore he would have been exposed, since the prisoners defense must be fully put to the jury.

The case at Bar is similar in facts to the case of *Schioler vs. United States, supra*. in that that case the Court recognized that self preservation is nature's first law and it is quite natural for mothers and fathers to seek in every way to preserve the lives of their children when their

safety is threatened. This is an identical situation with what happened in the case at Bar. The Respondent's every act was performed in order to save what she thought was the life of her child. If there was any fraud perpetrated, it was perpetrated by the Respondent's husband when he told her about the need for the child's operation. The relationship between husband and wife has always been one of the utmost confidence, and certainly the Respondent had [fol. 109] every right to believe what her husband told her about her child, who was already sick. She felt that the life of her child was so important to her that she was willing to sell herself to save it.

This Special Inquiry Officer seems to be of the opinion that in order to show that a person acted under duress, it is necessary to show that he or she was physically forced to perform an act. Physical force is but one means of duress. When a person, such as the Respondent was in this case, is reduced to such a state that his or her free agency is practically destroyed, then he or she is not exercising his or her free will and is acting under duress.

[fol. 110]

Conclusion

The Respondent began the practice of prostitution for one purpose and for one purpose only, that was, to obtain money so that her child could have an operation which she had been told, by her husband, was necessary, and which she believed was necessary to save the child's life.

When considering the confidential relationship between the Respondent and her husband, we would expect that she would believe what her husband told her about her son needing an operation.

As a result of this belief that her son needed such an operation, and that because she was destitute, she was reduced to such a state of mind and physical condition that it is apparent that she was not acting under a free will in order to choose, as a rational person would, what her acts

were, and were going to be, but rather, she was acting under duress. It is clear that these acts which the Respondent performed were performed as a result of duress, and therefore, under the aforementioned cases, she is not legally and/or morally responsible for her acts.

There is no showing in the record, or any other place, that the Respondent had ever practiced prostitution, or had committed any immoral acts prior to this two month period, and subsequent to this two month period.

The testimony shows that the Respondent is highly regarded by the other witnesses at the hearing, and each of them testified that she had not practiced prostitution subsequent to the Spring of 1957. There is nothing in the record which would indicate that the Respondent's testimony is not completely true.

[fol. 111] We respectfully submit that the Order of Deportation heretofore issued by the Special Inquiry Officer should be reversed, and the Respondent be permitted to stay in this country.

Sidney G. Kusworm, Jacob A. Myers, Attorneys for Respondent.

[fol. 113]

UNITED STATES DEPARTMENT OF JUSTICE
BOARD OF IMMIGRATION APPEALS
AND
IMMIGRATION AND NATURALIZATION SERVICE

NOTICE OF ENTRY OF APPEARANCE AS ATTORNEY
OR REPRESENTATIVE

..... (City) (State)

January 21, 1963

..... (Date)

File No. 10331472

In re: ELIZABETH ROSALIA WOODBY

Note:—Show below complete address of subject

..... (Address) (Apartment number)

..... (City) (State)

I hereby enter my appearance as attorney for (or representative of):

.....
or as associated with
the attorney of record, and my appearance is at his request.

(Check appropriate item, if applicable:)

1. I am an attorney and a member in good standing of the bar of the Supreme Court of the United States or of the highest court of the following State, territory, insular possession, or District of Columbia
..... and am not under a court or

(Name of court)

..... administrative agency order suspending, enjoining, restraining, disbarring, or otherwise restricting me in practicing law.

2. I am an accredited representative of the following named religious, charitable, social service, or similar organization established in the United States and which is so recognized by the Board:

.....

3. Others (Explain fully.) Did not appear. AWB.

.....

(Signature)

Atty. Sidney G. Kusworm

(NAME—Type or print)

(Address)

(Telephone number)

[fol. 114]

REQUEST FOR CONTINUANCE
Received January 21, 1963

(Letterhead of Kusworm and Kusworm, Dayton, Ohio)

January 18, 1963

Board of Immigration Appeals
10331472
Elizabeth Rosalia Woodby

United States Department of Justice
Board of Immigration Appeals
Washington, D.C.

Attn: Thos. G. Finucane

Dear Mr. Finucane:

The above case has been set for hearing before you on Monday, January 21, 1963.

I have attempted to get in touch with Mrs. Woodby to determine if she wishes us to attend and represent her at this hearing, but I have not been able to do so.

I realize this request is late, but I am requesting a continuance of this hearing so that I may determine the wishes of my client. I feel that because of the gravity of this matter, she should be given every chance to have her story told at the hearing.

Thank you for your consideration in this matter.

Very truly yours,

Kusworm & Kusworm
Jacob A. Myers

[fol. 115]

BEFORE THE BOARD OF IMMIGRATION APPEALS

Oral Argument: January 21, 1963

In Re: ELIZABETH ROSALIA WOODBY

File: A-10331472

Board: Mr. Griffin, Chairman, Miss Wilson, Mr. Cozier, and Mr. Montaquila.

Heard: (Sidney G. Kusworm, Attorney), 403 Keith Bldg., Dayton 2, Ohio, did not appear;

Irving A. Appleman, Service Representative before the Board.

Request: Service wants Deportation.

ARGUMENT OF MR. APPLEMAN

Mr. Appleman: The initial thing that bothers me in this case, is the statement on the reverse of the I-290, to the general effect, I forget the exact language, that he, (the attorney), had been prejudiced because he wasn't furnished a transcript of the hearing, and didn't get a chance to file a brief before the decision. Upon that there is nothing in the record to show that he asked for a transcript of the hearing. It is customary to make available a copy of the transcript to the attorney if he asks for it; I see no reason in the

world why this case would be an exception. There is no reason in the world why he couldn't obtain and look at a transcript of the hearing. There is no indication whatsoever that he *asked* for it.

The hearing was held, I believe, in March, 1962, and the decision was not rendered until I believe, October of 1962. Now during all of that time counsel had the opportunity to submit a brief if he wanted to. Lastly, he *did* file his I-290; you will note on it that he asked for additional time to file a brief, and since the case comes forward to us, that is to the Board, with a somewhat lengthy brief attached to it, and was received here only within the month, one must assume he was given that additional time and did file his brief, so that the statement as to his being prejudiced is not borne out by the record.

Now on the merits of the case, I don't know how much argument is needed by me. There are of course what would appear at first glance, and at superficial glance, that there are possible extenuating or sympathetic features in the case, but they do not stand up on a close examination. What you have here is a woman who is a widow, who came here [fol. 116] as wife of a U.S. citizen in 1956. At the time she entered she already had a child, and then after she came here another child was born; this was a premature birth, that child was born in August, 1956. Then they split up, and the husband left; first she left and she came back and the husband left, and the story is that about 6 or 8 months after the birth of the child, which would place it somewhat around February to April, in 1957, she got a telephone call from her husband who had left her. He said, and she wasn't too sure about this, but either he, the husband, or the child was ill, and needed an operation.

Later on she changed it, and resolved that it was the child that needed the operation, not the husband. But if you will note her original statement, she wasn't sure which it was. At any rate the operation was needed, which her child, ac-

cording to the story, the infant child then about 6 or 8 months old, for which \$300 was required, and of course she said she didn't have it. But then we get to the business of the vacuum cleaner salesman who appears at the door fortuitously and he loans the money to her, and she then enters into a life of prostitution, where he acts as the procurer.

This drama plays itself out, according to her story, for about two months, after she has achieved enough income from this source to pay back the vacuum cleaner salesman the \$300; she tells him that she no longer will, (and this is actually her own story), no longer will have anything to do with this sordid life. The story is difficult to accept, and this they claim is duress. All other considerations apart, this is a woman who—well, first of all she must have entered into this life of prostitution before the death of her husband, and he died in an accident around July of 1957; presumably she began a life of prostitution early in 1957, when the phone call came, or a day or so after.

At any rate she left him originally to go up to Pennsylvania. The child had just come out of the hospital, and this is an infant child, premature at birth, she doesn't take the child with her but goes up to Pennsylvania and some friend talks her into coming back, and she does. The husband then leaves with the children, and she goes on about her business. With respect to the phone call, here is a phone call coming, (and taking her story at its best), coming from her husband, who according to her is completely unreliable and untrustworthy, who has never supported her and never worked other than a little job that she managed to get for him through a friend. Now he tells her that her child, infant child is in the hospital, or at least needs an operation, is very seriously ill and can't survive presumably without this operation.

Now the normal reaction of any mother under these circumstances would be to rush off to the child. You don't

have any indication whatsoever of that. She knew where the husband was because she sent the money right away, the very next day, as soon as she got it from the vacuum cleaner salesman, but apparently she made no effort to see this infant child of hers who was so *very* sick. That is one aspect of it.

[fol. 117] Beyond that there is a very serious question how long she participated in this activity. Now she testified that the incidents took place a couple of times a day, for \$5.00 or \$10.00 or \$15.00 each incident, over a period of two months, 4 or 5 days a week, and that was enough to pay off the \$300. Actually in the statement that was given to the Service she testified that she continued this life up until the time she met a certain Amicon, whose statement is also in the record. Now he testified that he met her sometime in the latter part of 1957, October or December, somewhere around there, which would mean she continued this activity from the early part of 1957, roughly anywhere from February or April of 1957, to at least October, November or December of 1957, which is a considerably longer period than the two months that she said; and during which period of time she would obviously, according to her own testimony, have gained more than the necessary \$300.

She did have another job incidentally, apart from these considerations, and even accepting the two-months proposition, it is submitted that you do not have anything in the way of duress, as we know it. Here is a woman who enters into this activity to raise a sum of money. She is not compelled to do it, insofar as the procurer holding her prisoner or compelling her or anything of that sort. She continued that activity over this period of time for one reason, to pay ostensibly for the hospitalization or treatment of the child. There was no effort to contact the proper authorities, to assume the burden, if it is true, (assuming the statement given by her thoroughly unreliable husband, according to her, over the phone, is the truth), and merely on that basis alone she enters into a life of prostitution.

No effort to resist the means that she did pursue was made, or to find another way of taking care of the child, even assuming the facts to be as she claims. It is submitted that first the story is a thoroughly incredible one. It reads like the libretto of an opera, or an operetta, but then assuming that, you do not have any duress in any legal sense, as we understand it.

mb

[fol. 118]

ORDER EXTENDING TIME TO FILE BRIEF

Board of Immigration Appeals
In re: ELIZABETH ROSALIA WOODBY
File: A10 331 472

January 24, 1963

Jacob A. Myers, Esquire
Kusworm & Kusworm
403 Keith Building
Dayton 2, Ohio

Dear Mr. Myers:

Your letter dated January 18, 1963, requesting a continuance of hearing in the above case, was not received by this office until January 21st after oral argument had been heard. A copy of the transcript presenting the Service's view is enclosed for your use.

In order to afford your client another opportunity to be heard you may submit a brief in reply to oral argument on or before February 8, 1963, for our consideration before final decision is rendered.

A copy of the transcript of hearing held in March 1962 will undoubtedly be made available to you upon request at the Immigration office in Cleveland.

Sincerely yours,

Thomas G. Finucane, Chairman

Enclosure

[fol. 119]

UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

File A10 331 472

In the Matter of

ELISABETH ROSALIA WOODBY, Respondent.

BRIEF

REPLY OF RESPONDENT TO ORAL ARGUMENT

Received February 7, 1963

Kusworm and Kusworm, Attorneys at Law, By
Sidney G. Kusworm and Jacob A. Myers, Attor-
neys for Respondent.

[fol. 120] The factual situation in this case, as set forth by the Service Representative, Irving A. Appleman, is distorted as to the facts in this case.

The record is quite clear that Mrs. Woodby's husband called her and stated that her child was ill and needed an operation (H.R. 29). Because of being practically unable to speak the English language, and unable to earn money in any other way, and because of the pressure and force of believing her child would die if he did not have the needed operation, Mrs. Woodby entered into prostitution, which she stopped over five (5) years ago, when she earned the three hundred dollars needed for the alleged operation. The entire period of this action lasted over a period of two months, and Mrs. Woodby has not engaged in any acts of prostitution since that time. It is quite apparent from evidence in this case, that Mrs. Woodby never would have engaged in prostitution, and as a result thereof, jeopardized her life in America by engaging in prostitution if she did not believe that the life of her son was in danger, if she did not supply this money.

Mr. Appleman then states that this is a difficult story to accept. We agree that it is difficult to believe that some-

thing like this could happen in America, but I will not agree that the story is a difficult one to accept. The only evidence in this case is the testimony of Mrs. Woodby, and if we are going to accept her statement, we are going to have to accept her *entire statement* as to its truth. There is nothing in the record to contradict this part of Mrs. Woodby's statement, other than the Government's argument that it is difficult to believe.

The statement is then made that Mrs. Woodby originally left to go to Pennsylvania, and that she went without the [fol. 121] child and some friend talked her into coming back. At the hearing of this matter (see H. R. 27), Mrs. Woodby stated that she was forced to go on the bus, with only Ten Dollars (\$10.00) and to leave her child at home; this is quite different from the argument as set forth by the Government.

The argument is then proposed that if Mrs. Woodby loved her child, she would have run to Kentucky to see the child, rather than trying to get the money. This may be very true, if she had the money to go to Kentucky, and if she were not persona non grata with her husband's parents, and if she had the Three Hundred Dollars (\$300.00) to pay for the operation when she got there, and if she did not have her other child with her in Dayton, Ohio.

It appears that the argument is also had to the effect that Mrs. Woodby did not do the rational thing in a certain set of circumstances. This may very well be true, but we are not here to argue as to what the normal reaction of a mother is under a certain set of given circumstances, but rather we are arguing what this mother did under these circumstances.

The question now arises as to how long Mrs. Woodby engaged in acts of prostitution. She testified that it was approximately two months before she had repaid the \$300.00 (H. R. 8). The testimony is also in the record that she moved to Knoxville, Tennessee, and returned to Dayton, Ohio, on July 4, 1957 (H. R. 34). She lived at

Rugby Road from July 4th until sometime in September, when she moved to 1500 West Riverview, where [fol. 122] she was working (H. R. 40). That is where Mr. Amicon met Mrs. Woodby in October of 1957 (H. R. 18). These facts are in contradiction to the facts as set forth by the Government. If we assume that the facts as set forth by Mrs. Woodby are true, then her acts were as a result of duress, and she is not legally responsible for them. In Mrs. Woodby's statements, and at the hearing, she admitted having engaged in prostitution, but she also admitted the facts leading up to these acts. We, therefore, must assume that her entire story is true, for if she were going to lie about anything, the most logical thing to lie about would be the acts of prostitution, not the acts of circumstances which led up to the prostitution.

In order to show duress, it is not necessary to show that one was physically forced into such an act. Numerous cases were cited in the Brief of the Respondent, which show that the acts complained of were performed under duress. Since these acts were performed under duress, Mrs. Woodby is not legally responsible for them, and the order of deportation previously entered should be reversed.

Respectfully submitted:

S. G. Kusworm, Jacob A. Myers, Attorneys for Respondent.

[fol. 123]

LAW OFFICES
KUSWORM AND KUSWORM
FOURTH FLOOR, KEITH BUILDING
DAYTON 2, OHIO

SIDNEY G. KUSWORM, SR.

TELEPHONE 223-6208

SIDNEY G. KUSWORM, JR.

AREA CODE 513

JACOB A. MYERS

February 6, 1963

Mr. Thomas G. Finucane, Chairman
Board of Immigration Appeals
United States Department of Justice
Washington, D. C.

Re: ELIZABETH ROSALIA WOODBY
File: A10 331 472

Dear Mr. Finucane:

Enclosed is an original and two copies of the Reply of the Respondent to the Oral Argument of the Government. I would appreciate the Board considering this in connection with the briefs which have been previously filed in your determination of this case.

Will you be so kind as to forward one of these copies to Mr. Appleman, as I do not have his address.

Thank you for your consideration in this matter.

Very truly yours,

KUSWORM AND KUSWORM

By /s/ JACOB A. MYERS
Jacob A. Myers

JAM/dot
encls.

[Stamp—Received—Feb 7—1963—Board of Immigration Appeals]

[fol. 124]

UNITED STATES DEPARTMENT OF JUSTICE

Board of Immigration Appeals

File: A-10331472—Cleveland

In re: ELIZABETH ROSALIA WOODBY

In Deportation Proceedings

Appeal

Oral Argument: January 21, 1963

On behalf of respondent: Sidney G. Kusworm, Esq., 403 Keith Building, Dayton 2, Ohio (Did not appear submitted case on brief).

On behalf of I&N Service: Irving A. Appleman, Esq.

Charges:

Order: Sec. 241(a)(12), I&N Act (8 USC 1251(a)(12))
—Prostitution after entry.

Lodged: None

Application: Termination of proceedings

OPINION—March 8, 1963

The case comes forward on appeal from the order of the special inquiry officer dated October 30, 1962, finding the respondent deportable on the charge stated above and directing her deportation to Germany or, in the alternative, to Hungary.

The respondent is a native of Hungary, a citizen of Germany, 30 years old, female, whose last and only entry into the United States occurred on or about February 7, 1956, at the port of New York. She had married a United States citizen serving in the United States Armed Forces in Germany on January 8, 1955, and a daughter was born to them in Germany. The respondent and her daughter lived with

[fol. 125] her husband's parents in Harlan, Kentucky, for a few months and then came to Dayton, Ohio, where a son was born on August 13, 1956. This was a premature birth and, as a consequence thereof, the baby remained in the hospital for several months. The respondent testified that when the baby was released from the hospital she and her husband quarreled and her husband virtually forced her to visit a friend in Pennsylvania; that she returned after one day to find that her husband had taken the baby and left for Harlan where her daughter already was. This would have been about December 1956.

When the son was about six to eight months old, the respondent testified she received a phone call from her husband telling her that the baby son required hospitalization and that \$300 was needed at once. The next evening she was alone in her apartment, crying, when a vacuum cleaner salesman called, to whom she told her troubles. After a few drinks the salesman offered to advance her the money to be repaid from what she received from men he would send to her. Compelled by circumstances, the respondent agreed; a man with the salesman took some photographs of her in the nude. She received the \$300 which she sent to her husband and continued the practice of prostitution for about eight weeks from April 1st 1957 until she was able to repay the salesman. She then wanted to quit but the salesman threatened to report her to the police or immigration authorities and she continued for another two weeks but when she met a Mr. Amicon she quit prostitution.

In her statement dated November 20, 1961 (Ex. 2) the respondent at first testified that she engaged in illicit sex acts but maintained that she only received gifts for such occasional acts, that she did not solicit men in such acts and that she had sexual relations with only three men since her marriage. She further testified that about six or eight months after her son was born her husband asked her for money to pay for the son's hospitalization and that she borrowed \$300 from a vacuum cleaner salesman named Tom

Wally but that she received only \$40 or \$50 from illicit [fol. 126] sexual relations. She stated that her employer took the \$300 out of her pay. After being admonished to tell the truth, she then stated that Mr. Wally, who had called on her to demonstrate a vacuum cleaner, and to whom she told the story of needing \$300, agreed to give her \$300 if she would practice prostitution and that she agreed although she did not realize it was prostitution and that men paid her \$5 or \$10; that after she had the \$300 she sent it to her husband and as far as she knows the boy had the operation and is all right. In her statement she testified that she indulged in this practice for about two months, the first time in Summit Court and that she received two men a day for three or four days a week and that all these acts occurred at the Summit Street address.

According to the respondent's story she practiced prostitution from about April to June 1957. Mr. Amicon, in his statement of November 15, 1961 (Ex. 3) stated that he first visited the respondent for the purpose of sexual intercourse about the first of December 1957 when the respondent was living at 1500 West Riverview, that he could not go through with it but left her the money anyway. He stated he then went back with his wife for Christmas and resumed a sexual relationship with the respondent about February 1958 but he did not pay for it and that sex turned into love. This witness admitted making a statement to the police acknowledging that he had paid the respondent for prostitution but he said he did so to prevent the officers from taking the respondent's child to a children's home. Mr. Amicon stated that he did not know of any other persons with whom she engaged in acts of prostitution and did not know that she was a prostitute other than those times when he paid her for such acts (Ex. 3, p. 7). He also confirmed respondent's story to the extent that she had told him that her little boy needed an operation in the amount of \$300 and that a vacuum cleaner salesman, to whom she had told her troubles, arranged for her to practice prostitution to raise the money.

[fol. 127] Mr. Amicon appeared as a witness at the hearing and testified that he met the respondent about October 1957, and that he was told by a friend that she practiced prostitution, that he visited her for that purpose but did not have sexual relations at that time although he left her \$10. The witness corrected his statement of November 15, 1961, to the effect that he did not pay the respondent for acts of prostitution.

The respondent stated that she resided at Summit Court, Dayton, Ohio, about two months after her husband left her in December 1956, or about February 1957, and resided there about a year and a half (Ex. 2, pp. 3-4). She testified that she stayed at Knoxville, Tennessee, for three months and returned on July 4, 1957, or 1958 when Mrs. Jackson picked her up. (Tr. pp. 34-35); that she lived with Mrs. Jackson for two weeks on Rugby and then they moved to an apartment at 1500 Riverview above Neil's where she was working. She further testified that she lived with Mrs. Jackson about a year.

Mrs. Arlene Jackson appeared as a witness for the respondent and testified that the respondent called her from Knoxville, Tennessee, to pick her up and that she returned to 1936 Rugby Road, Dayton, Ohio, on July 4th; that they moved in September to 1500 West Riverview above Neil's where they lived until between Christmas and New Year's, 1958. She stated that the respondent lived with her until about February 1961, a total period of two and a half years.

It is noted that the respondent had first denied the practice of prostitution, stating that she engaged in illicit intercourse for gifts only three months; and then later changed her story to the effect that she engaged in prostitution as a result of an urgent request from her husband, from whom she was separated, for \$300 to pay for hospitalization for their son; that she entered into prostitution as a result of an arrangement with a vacuum cleaner salesman and

that she practiced prostitution from April 1957 for eight to ten weeks or until June or July 1957. A witness, Mr. Ami- [fol. 128] con, has testified variously that he met the respondent in October or December 1957 at 1500 West Riverview above Neil's when he was referred to her as a practicing prostitute. A witness for the respondent, Mrs. Jackson, has testified that the respondent moved with her to 1500 West Riverview above Neil's in September 1957 and remained there until 1958. They continued living there until Christmas or New Year's of 1958. The testimony of these witnesses makes it apparent that the respondent was engaged in the practice of prostitution until about October or December 1957 and not, as she claimed, until June or July 1957.

Even if respondent's bizarre story that she engaged in prostitution to raise \$300 for her son's operation is accepted, it is clear from the evidence that she continued to practice prostitution until at least late 1957 or 1958, long after she had repaid the loan from the vacuum cleaner salesman. While it is not clear from the testimony whether it was 1957 or 1958, taking the evidence most favorable to the respondent it was at least late 1957. Even if the respondent's story is to be believed, even if it be conceded that the circumstances under which she entered the practice of prostitution may have amounted to duress, nevertheless the continuance of the practice of prostitution until at least late 1957 is not explained and cannot be defended on the ground of duress. Upon a full consideration of all the evidence of record, it is concluded that the evidence establishes deportability on the charge contained in the Order to Show Cause. The appeal will be dismissed.

Order: It is ordered that the appeal be and the same is hereby dismissed.

Thos. G. Finucane, Chairman.

[fol. 129]

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D. C.

March 8, 1963

(Insignia)

Address Reply to the
Division Indicated
and Refer to Initials and Number
Board of Immigration Appeals

Woodby
A-10331472

Sidney G. Kusworm, Esquire
403 Keith Building
Dayton 2, Ohio

Reference is made to your interest in the above case.

For your information, there is enclosed herewith copy
of the decision and order of the Board of Immigration Ap-
peals.

Sincerely yours,

Thos. G. Finucane
Chairman

[fol. 130]

UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

WARRANT OF DEPORTATION—March 18, 1963

No. A-10 331 472

To any Officer or Employee of the United States Immigration and Naturalization Service.

WHEREAS, after due hearing before an authorized officer of the United States Immigration and Naturalization Service, and upon the basis thereof, an order has been duly made that the alien Elizabeth Rosalia WOODBY who entered the United States at New York, New York on the 7th day of February, 1956, is subject to deportation under the following provisions of the laws of the United States, to wit:

Section 241(a)(12) of the Immigration and Nationality Act, in that, by reason of conduct, behavior or activity at any time after entry you became a member of any of the classes specified in section 212(a)(12), to wit, aliens who have engaged in prostitution.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his direction, do hereby command you to take into custody and deport the said alien pursuant to law, at the expense of the appropriation, "Salaries and Expenses, Immigration and Naturalization Service, 1963".

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 18th day of March 1963.

At Cleveland, Ohio.

/s/ THOMAS M. PEDERSON
Thomas M. Pederson, District Director

[fol. 131]

Port of

Date

WARRANT FOR DEPORTATION OF

Executed, 19.... S. S.

(Signature of officer)

(Title)

[fol. 132]

BEFORE THE BOARD OF
IMMIGRATION APPEALS

File A10 331 472

In the Matter of
ELIZABETH ROSALIA WOODBY, Respondent.

MOTION TO RECONSIDER—Filed May 17, 1963

Comes now Elizabeth Rosalia Woodby, by her attorneys, and moves the Board of Immigration Appeals to reconsider its previous decision whereby said Board found the Appellant to be subject to deportation.

Kusworm & Kusworm, Attorneys for Elizabeth Rosalia Woodby.

[Stamp—1963 May 17 AM 11:00—U. S. Immigration and Naturalization—Cleveland, Ohio]

[fol. 133]

UNITED STATES GOVERNMENT

MEMORANDUM

DATE: May 17, 1963

To: Chairman, Board of Immigration Appeals,
Department of Justice, Washington 25, D.C.

FROM: Thomas M. Pederson, District Director,
Immigration & Naturalization Service,
Cleveland, Ohio

SUBJECT: A10 331 472; ELIZABETH ROSALIA WOODBY;
Motion to Reconsider

The record file relating to the subject is transmitted herewith for your consideration of the respondent's motion to reconsider the Board's order of March 8, 1963, dismissing the appeal.

This office has directed the respondent to surrender herself for deportation on May 28, 1963, and it is felt that the present motion is of a frivolous and dilatory nature.

Deportation will therefore not be stayed pending consideration of the present motion by the Board of Immigration Appeals.

THOMAS M. PEDERSON

[fol. 134]

BEFORE THE BOARD OF
IMMIGRATION APPEALSREQUEST FOR ORAL ARGUMENT ON MOTION FOR
RECONSIDERATION—Received May 23, 1963LAW OFFICES
KUSWORM AND KUSWORM
FOURTH FLOOR, KEITH BUILDING
DAYTON 2, OHIO

SIDNEY G. KUSWORM, SR.

TELEPHONE 223-6208

SIDNEY G. KUSWORM, JR.

AREA CODE 513

JACOB A. MYERS

May 21, 1963

Mr. Thomas G. Finucane, Chairman
Board of Immigration Appeals
United States Department of Justice
Washington, D. C.

Re: Elizabeth Rosalia Woodby
File—A-10-331 472

Dear Mr. Finucane:

I have filed a Motion to Reconsider on behalf of Elizabeth Rosalia Woodby, and in support thereof, have filed Affidavits with the Cleveland Office of the Immigration and Naturalization Service. This Motion, and these Affidavits will undoubtedly be forwarded to you by the Cleveland Office.

However, at this time, I would like to request an oral hearing on this Motion to Reconsider, as I feel that a great injustice has been done my client.

Very truly yours,

/s/ JACOB A. MYERS
Jacob A. Myers

JAM:vb

[Stamp—Received—May 23, 1963—Board of Immigration Appeals]

[fol. 135]

BEFORE THE BOARD OF
IMMIGRATION APPEALS

LETTER TRANSMITTING AFFIDAVITS—Received May 20, 1963

FILE ROOM

LAW OFFICES
KUSWORM AND KUSWORM
FOURTH FLOOR, KEITH BUILDING
DAYTON 2, OHIO

SIDNEY G. KUSWORM, SR.

TELEPHONE 223-6208

SIDNEY G. KUSWORM, JR.

AREA CODE 513

JACOB A. MYERS

May 17, 1963

United States Department of Justice
Immigration and Naturalization Service
600 Standard Building
Cleveland 13, OhioIn Re: ELIZABETH ROSALIA WOODBY
File No. A10 331 472

Gentlemen:

Pursuant to my letter of May 14, 1963, in which I forwarded to you a Motion to Reconsider the decision of the Board of Immigration Appeals and also a check for \$25.00 to cover the cost thereof, I am enclosing an original and two copies each of the affidavits of Elizabeth Woodby and Anthony Amicon. These two affidavits are necessary in order to straighten out the time sequence of the events as they happened to Elizabeth Woodby.

I am also requesting an oral argument on this Motion to Reconsider. Please advise immediately if the deportation

[Stamp—1963 May 20—AM 9:55—U. S. Immigration and
Naturalization—Cleveland, Ohio]

order has been withdrawn until this motion to reconsider has been decided.

Very truly yours,

/s/ JACOB A. MYERS
Jacob A. Myers

JAM/dot
encls.

cc: Thomas G. Finucane, Board of Immigration Appeals,
Washington, D. C.
Immigration and Naturalization Service,
Cincinnati, Ohio
Elizabeth Woodby

[Stamp—Immigration and Naturalization Service—May 23
—11:28 AM '63—Cincinnati, Ohio]

[fol. 136]

AFFIDAVIT

United States of America,
State of Ohio,
County of Montgomery, ss.:

Anthony Amicon, being first duly cautioned and sworn, deposes and says that in approximately October of 1957, while at Neil's Restaurant, 1500 West Riverview Avenue, Dayton, Ohio, he met Elizabeth Rosalia Woodby, who was a waitress working in the restaurant at that time;

Affiant further sayeth that the person he was with told him that Elizabeth Rosalia Woodby was "in the business;"

Affiant further sayeth that he went to Elizabeth Woodby's apartment and spoke with her at some length there, and she told him the entire story concerning the prostitution and her contact with Tom Walley;

Affiant further sayeth that he gave Elizabeth Woodby the sum of \$10.00 so that she would have some money to

go to Harlan, Kentucky to see her children who were then staying with her in-laws;

Affiant further sayeth that to the best of his knowledge, Elizabeth Woodby has never engaged in any acts of prostitution as long as he has known her.

Affiant further sayeth not.

Anthony Amicon

Sworn to and subscribed in my presence by the said Anthony Amicon this 18th day of May, 1963.

Jacob A. Myers, Notary Public
Jacob A. Myers, Notary Public, Attorney at Law,
In and for the State of Ohio, My Commission has
no expiration date, Section 147.03 R. C.

(Seal)

[fol. 137]

AFFIDAVIT

United States of America,
State of Ohio,
County of Montgomery, ss.:

Elizabeth Rosalia Woodby, being first duly cautioned and sworn, deposes and says that beginning in approximately February of 1957, she engaged in acts of prostitution in order to obtain the sum of \$300.00 for an operation for her son which she was told by her husband that her son needed, and that if she did not obtain the sum of \$300.00, that her son would not be able to have the operation and she believed that he would probably die as a result thereof; that she engaged in acts of prostitution for approximately two months, which was the time it took her to earn this sum of \$300.00 to repay one Tom Walley;

Affiant further sayeth that as soon as she repaid this sum of \$300.00, which was approximately in April of 1957,

she stopped engaging in acts of prostitution and has never done so since that time;

Affiant further sayeth that Tom Walley attempted to blackmail her by threatening to report her to the Immigration authorities or to the police, if she did not continue engaging in acts of prostitution;

Affiant further sayeth that in an attempt to get away from Tom Walley, she left Dayton, and went to Knoxville, Tennessee in April of 1957, where she remained for approximately three months until July 4, 1957, when Mrs. Arlene Jackson picked her up and brought her back to Dayton, Ohio;

Affiant further sayeth that she lived with Mrs. Arlene Jackson at 1936 Rugby Road, Dayton, Ohio from July 4, 1957 until September of 1957 when they moved to 1500 West Riverview Avenue, Dayton, Ohio, which is the apartment above Neil's Restaurant;

Affiant further sayeth that she met Mr. Amicon in Neil's Restaurant, while she was working there, some time in October of 1957.

Affiant further sayeth not.

Elizabeth Rosalia Woodby

Sworn to and subscribed in my presence by the said Elizabeth Rosalia Woodby on this 18 day of May, 1963.

Jacob A. Myers, Notary Public
Jacob A. Myers, Notary Public, Attorney at Law,
In and for the State of Ohio, My Commission has
no expiration date, Section 147.03 R. C.

(Seal)

[fol. 138]

OFFICE MEMORANDUM

UNITED STATES GOVERNMENT

A10 331 472

DATE: May 23, 1963

To: Chairman, Board of Immigration Appeals
Department of Justice, Washington, D. C.

FROM: Roy Anadell, Officer in Charge
Cincinnati, Ohio

SUBJECT: Elizabeth Rosalia Woodby, A10 331 472;
Motion to Reconsider

The record file relating to the subject was transmitted May 17, 1963 for your consideration of the respondent's motion to reconsider the Board's order of March 8, 1963 dismissing the appeal.

The attached letter and affidavits, in support of the motion to reconsider, are transmitted herewith.

Attachment

/s/ Roy ANADELL

[Stamp—Received—May 24, 1963—Board of Immigration Appeals]

[fol. 139]

COLLECT

May 27, 1963

Sidney G. Kusworm, Esquire
403 Keith Building
Dayton 2, Ohio

Re Elizabeth Rosalia Woodby A-10331472 Board May 27th
ordered that application for oral argument and motion for
reconsideration be denied. Decision follows.

Thomas J. Griffin
Acting Chairman
Board of Immigration Appeals

[Stamp—Mailed May 27, 1963—Board of Immigration
Appeals]

[fol. 140]

U. S. DEPARTMENT OF JUSTICE
BOARD OF IMMIGRATION APPEALS

May 27 1963

File: A-10331472—Cleveland

In re: Elizabeth Rosalia Woodby

In Deportation Proceedings

Motion

On Behalf of Respondent:

Sidney G. Kusworm, Esquire, ~~Kusworm and Kusworm~~,
403 Keith Building, Dayton 2, Ohio

Charges:

Order: Sec. 241(a)(12), I&N Act (8 USC 1251
(a)(12))—Prostitution after entry

Lodged: None

Application: Motion to reconsider

OPINION ON MOTION FOR RECONSIDERATION—May 27, 1963

Respondent, whose deportation is set for May 28, 1963,
moves for reconsideration of the Board's order of March

8, 1963 requiring her deportation upon the ground stated above; oral argument is requested. The request for oral argument and the motion will be denied.

Respondent, a 30-year-old female, a native of Hungary and citizen of Germany, was admitted to the United States on February 7, 1956. She was charged with having practiced prostitution after entry. The deportation proceedings reveal that respondent admitted having practiced prostitution but stated that it was under the duress of raising money to pay for an operation. The special inquiry officer and the Board found that assuming duress had been present [fol. 141] at all, respondent had nevertheless continued to engage in prostitution after the duress had been removed.

The motion gives no reason for the reconsideration but has attached to it an affidavit from the respondent and one from Anthony Amicon. Respondent states that she had engaged in prostitution for two months (February 1957 to about April 1957) to earn money to pay for an operation and sets out her whereabouts from February 1957 to October 1957. Mr. Amicon who had been a witness at the hearing stated that he met the respondent in October 1957 and to the best of his knowledge she had never engaged in acts of prostitution as long as he had known her.

The material furnished was called to the Board's attention by counsel's brief and reply brief. It was carefully considered by the Board before its order was made. We find no reason to change our previous order.

We note the motion for reconsideration is defective for failure to comply with the regulation (8 CFR 103.5) which requires that the reason upon which the motion is based shall be stated and that information as to whether the validity of the order of deportation has been the subject of judicial proceedings shall be furnished.

The case was thoroughly briefed by counsel and we find no reason advanced to hear oral argument on the motion. *

Order: It is ordered that the application for oral argument on the motion for reconsideration be and the same is hereby denied.

It Is Further Ordered that the motion for reconsideration be and the same is hereby denied.

Thomas J. Griffin, Acting Chairman.

[fol. 142]

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D. C.

(Insignia)

Address Reply to the
Division Indicated
and Refer to Initials and Number
Board of Immigration Appeals

Woodby
A-10331472

May 27, 1963

Sidney G. Kusworm, Esquire
Kusworm and Kusworm
403 Keith Building
Dayton 2, Ohio

Reference is made to your interest in the above case.
For your information, there is enclosed herewith copy
of the decision and order of the Board of Immigration Ap-
peals.

Sincerely yours,

THOMAS J. GRIFFIN
Acting Chairman

Dec. teletyped CLE
4:50 p.m. 5/27/63.
AWB.

[Stamp—Received—May 29, 1963—Immigration & Na-
turalization—Cleveland, Ohio]

[fol. 145]

CAUSE ARGUED AND SUBMITTED

Before: Miller, O'Sullivan and Phillips, Circuit Judges.

ARGUMENT AND SUBMISSION—February 27, 1965

This cause is argued by Sidney G. Kusworm and Jacob A. Myers for Petitioner and by Charles G. Heyd for Respondent and is submitted to the Court.

[fol. 146]

JUDGMENT—September 16, 1965

On petition for review of orders of the Immigration and Naturalization Service,

This cause came on to be heard on the transcript of the record from the Immigration and Naturalization Service and was argued by counsel.

On consideration whereof, it is ordered and adjudged by this Court that the orders of the Board of Immigration Appeals be and they are affirmed.

No costs awarded. Rule 23(4).

Entered by order of the Court.

Carl W. Reuss, Clerk.

[fol. 147]

No. 15637

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ELIZABETH ROSALIA WOODBY, Petitioner,

v.

IMMIGRATION & NATURALIZATION SERVICE, Respondent.

On Petition for Review of Denial of Motion to Reconsider.

OPINION—September 16, 1965

Before Miller, O'Sullivan, and Phillips, Circuit Judges.

O'SULLIVAN, Circuit Judge. This case is before us upon the petition of Elizabeth Rosalia Woodby to review and vacate an order of the Board of Immigration Appeals entered on May 27, 1963, denying her Motion to Reconsider its earlier order of March 8, 1963. The March order dismissed her appeal from an order of a Special Inquiry Officer directing that she be deported to Germany. The deportation proceedings were had under 8 U.S.C.A. § 1251(a)(12), which provides that,

“(a) Any alien in the United States * * * shall * * * be deported who—

* * * * *

(12) by reason of any conduct, behavior or activity at any time after entry became a member of the classes specified in paragraph (12) of section of 1182(a) of this title; * * *.”

Section 1182(a)(12) defines as a class subject to exclusion,

[fol. 148] “(12) aliens who are prostitutes or who have engaged in prostitution * * *.”

The special inquiry officer conducted a hearing pursuant to 8 U.S.C.A. § 1252, at which testimony was taken and petitioner was represented by counsel. Petitioner and three other witnesses testified at such hearing and affidavits of petitioner and another obtained upon prehearing investigation were received in evidence. The inquiry officer found that petitioner had engaged in prostitution as charged and ordered that she be deported. Petitioner concedes that she did engage in prostitution, but claims that she did so while acting under duress which arose from the circumstances hereinafter set forth.

On January 8, 1955, petitioner Woodby, a native of Hungary and a citizen of Germany, married an American soldier then in service in Germany. Two children were born of the marriage. The first, a girl, was born in Germany and the second, a boy, was born prematurely in the United States on August 13, 1956. Petitioner was admitted to the United States on February 7, 1956, and went to live with her husband and daughter at the home of her husband's parents in Harlan, Kentucky. A few months later petitioner and her husband moved to Dayton, Ohio, where the second child was born. Petitioner's infant daughter was then living with her paternal grandparents in Kentucky. It is clear from the evidence that petitioner's husband gave little attention to the support and care of his wife and children.

Petitioner and her husband and the new born son lived for a time in Dayton until, as claimed by petitioner, the husband left her in early 1957, taking the son with him, and presumably took up residence in Harlan, Kentucky, with his parents and children. The husband was killed in an automobile accident about July 14, 1957.

It was after her husband left her that petitioner entered into the practice of prostitution. Her account of the facts which she claims made such conduct the produce of duress is as follows.

[fol. 149] While working to support herself, and about April 1, 1957, (later changed to February 7, 1957), she got

a telephone call from her husband, who told her that their infant son was seriously ill and needed an operation that would cost \$300.00. He stated that he had no money or Blue Cross insurance and requested her to provide the needed cash. The next day while petitioner was alone in her apartment contemplating her plight and crying, fearful that her son would die unless she could get the money for his operation, a vacuum cleaner salesman came to her apartment. Observing petitioner's apparent state of anxiety, this man asked the cause and told her he could help her get the money. He left momentarily and shortly returned with another man and a bottle of whiskey. After petitioner had consumed some whiskey, this vacuum cleaner salesman and part-time panderer proposed that he would lend petitioner the needed money to be repaid with her earnings as a prostitute from customers he would procure. She was importuned to disrobe and have some pictures taken in the nude, presumably to aid the procurer to attract business to her. Petitioner thereupon began the regular practice of prostitution, carrying it on in addition to her employment as a waitress. She continued in this enterprise until she had earned enough to and did repay the loan. She testified that she ceased her life as a prostitute about July 1, 1957, (later changed to early April, 1957), and went to Tennessee, later to return to Dayton with a woman friend. She stated that she did not thereafter engage in prostitution, although she admitted to continuing sexual relations with a man whose first meeting with her was to keep a prostitution engagement.

A very confused record ends its identification of petitioner's activities with the latter part of the year 1958. What occurred between then and the immigration authorities' investigation of her in about the middle of 1961 is not revealed. The record suggests some effort on petitioner's part to regain custody of her children from her husband's parents, but the record is silent as to the outcome. The rec-[fol. 150] ord is likewise silent as to how and why the immigration authorities became interested in petitioner at

least three years after, as far as the record before us discloses, she discontinued activities as a prostitute. We have been told nothing as to the legal custody of petitioner's children, except for the observation in the decision of the Special Inquiry Officer that "since here citizen children are now in the legal custody of respondent (*sic*) father- and mother-in-law, there is no basis for considering that her deportation would result in extreme hardship to her children." The appendices before us give no advice as to the basis for such observation nor whether the grandparents in any way excited the government's interest in deporting petitioner. The Special Inquiry Officer further said that while at the time of the hearing in 1962 petitioner's children had been with the grandparents for two years, "there is no indication that respondent has the received custody of the children, although at the hearing she testified she had engaged a lawyer for proceedings to regain their custody."

The order of deportation provides that petitioner, the mother of these infant American citizens, "be deported *** to Germany" and that if Germany will not accept her, "the respondent shall be deported to Hungary."

The evidence which has brought about her deportation was principally supplied by information disclosed to the authorities by petitioner herself, together with that of three obviously friendly witnesses called at the hearing before the Special Inquiry Officer. This officer's conclusions were based on this testimony and sworn statements earlier taken from petitioner and a gentleman friend of hers. This man testified that while his first meeting with petitioner in October, 1957, was to enjoy her availability as a prostitute, he fell in love with her and would like to marry her if he could obtain a divorce from his wife. We assume that, for whatever reason, this marriage has not yet taken place, although petitioner admits having sexual relations with this man after she had discontinued her prostitution until a time shortly before the hearing.

[fol. 151] The decision of the Special Inquiry Officer and the affirmance of that decision by the Board of Immigr-

tion Appeals were not based upon a conclusion that petitioner's story of entering prostitution under the duress of having to raise \$300.00 to save the life of her son was false. They referred to it as a "bizarre story" and "a hard story to believe." But they concluded that whatever the circumstances that prompted its beginning, she continued to carry on the business of prostitution after the original compulsions had ceased to operate. The Board of Immigration Appeals stated,

"Even if the respondent's story is to be believed, and even if it be conceded that the circumstances under which she entered the practice of prostitution may have amounted to duress, nevertheless the continuance of the practice of prostitution until at least late 1957 is not explained and cannot be defended on the ground of duress."

It is quite apparent that the Board and the Special Inquiry Officer arrived at their factual conclusion from the many discrepancies in petitioner's testimony and its contradiction by statements made by her in her prehearing sworn statement. There was much confusion as to the places at which and the times during which she carried on as a prostitute. Such confusion would permit a finding that her activity in this regard extended into late 1957 and possibly late 1958, and that she was freed of the claimed duress in early 1957. There is no evidence of prostitution by her after 1958 and in her address to this court she implied that she has been leading an exemplary life since the latest date that the proofs established prostitution. She testified at the hearing that she has not returned to prostitution, and the three other witnesses testified to her good character and reputation. We are not informed as to the custodial status of her children from and after the proven period of her prostitution. Her hearing was held March 28, 1962, the Special Inquiry Officer's decision was [fol. 152] rendered October 30, 1962, her appeal to the Board of Immigration Appeals was dismissed March 8,

1963, and her Motion to Reconsider was denied on May 27, 1963. The Motion to Reconsider, verified by her oath, did not rely upon a claim of her children's need for her. Further evidence of her continued good behavior or her children's need for her might move the immigration authorities to withhold the seeming cruelty of tearing a young mother from her children and sending her from the country of which they are citizens. Even if it were our function to appraise the harshness of the deportation of this petitioner, we do not have sufficient facts before us upon which to form our own judgment thereon. We believe that our function ends when we find, as we do, that the Board's underlying order is "supported by reasonable, substantial, and probative evidence on the record considered as a whole * * *," 8 U.S.C.A. § 1105a(a)(4), and that denial of petitioner's Motion to Reconsider was not an abuse of discretion. The Board made out its case and it is not for us to say that petitioner's post-prostitution good conduct, if such had been proved, required forgiveness and the withholding of deportation. We are not at liberty here to proceed on the basis of what we might have done had we been in the position of the immigration authorities.

Giova v. Rosenberg, — U.S. — (1964) held that denial of a Motion to Reopen is a final order, reviewable by this Court even though such review is sought more than six months from the order of deportation, but within six months of denial of a motion to reopen. The respondent Immigration and Naturalization Service contends that inasmuch as the petition for review here was filed more than six months from the date of the order of March 8, 1963, affirming the order of deportation, we are limited to reviewing the discretionary denial of the Motion to Reconsider. See 8 U.S.C.A. § 1105a(a)(1).

Petitioner contends that her Petition for Review requires that we test the Board's action under 8 U.S.C.A. § 1105a(a)(4) which seemingly permits us to consider whether the [fol. 153] underlying order was supported by "reasonable, substantial, and probative evidence on the record considered

as a whole." We need not decide this suggested limitation upon our review powers because, as stated above, we are persuaded that the Board orders must be affirmed on either ground.

It is so ordered.

[fol. 154] Clerk's Certificate (omitted in printing).

[fol. 155]

SUPREME COURT OF THE UNITED STATES

No. 825, October Term, 1965

ELIZABETH ROSALIA WOODBY, Petitioner,

v.

IMMIGRATION AND NATURALIZATION SERVICE.

ORDER ALLOWING CERTIORARI—April 18, 1966

The petition herein for a writ of certiorari to the United States Court of Appeals for the Sixth Circuit is granted. The case is placed on the summary calendar and set for oral argument immediately following No. 1090.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Stewart took no part in the consideration or decision of this petition.